



RSA No.1304 of 2020
S. No.117

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA No.1304 of 2020
Date of Decision:11.03.2025**

Satish Kumar

.....Appellant

Vs.

**The Registrar, Karnal, Tehsil and District Karnal
and others**

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sushil Jain, Advocate for the appellant.

DEEPAK GUPTA, J. (Oral)

Suit for declaration filed by plaintiff- Satish Kumar (*appellant herein*) was dismissed by the trial Court on 21.12.2015. Appeal filed by him has been dismissed by the First Appellate Court on 03.03.2020. Against these concurrent findings, the plaintiff of the case has approached this Court by way of the present Regular Second appeal.

2. According to plaintiff (*appellant herein*), defendant No.2 – Sukhbir (*respondent No.2 herein*) had sold 02 kanal 18 Marlas of land to him for consideration of ₹4,35,000/-. The entire sale consideration was paid at the time of execution of the sale deed. After completing the formalities, when sale deed was presented for registration before the Sub Registrar, Gharaunda - defendant No.3 (*respondent No.3 herein*), he refused to register the sale deed on the ground that there was some restrain order passed by the Civil Court in suit tiled “*Naresh Kumar Vs. Sukhbir Singh*”. On application moved under Section 77 of Registration Act, 1908 to the Registrar, Karnal - defendant No.1 (*respondent No.1 herein*), matter was remanded to the Sub-Registrar for deciding the matter

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afresh. However, Sub Registrar, Gharaunda again refused to register the sale deed on 15.02.2011 by citing the restrain order of the Civil Court. Appeal filed before Registrar, Karnal against the order of Sub Registrar was dismissed on 26.04.2011. Claiming that there was no restrain order regarding alienation of the property in dispute and that Sub Registrar, Gharaunda has committed illegality in refusing the registration of the sale deed, plaintiff prayed for issuing necessary direction to defendant No.1 to register the sale deed.

3.1 Defendants No.1 and 3 contested the suit by pleading restrain orders of the Civil Court and submitted that at the time of presentation of the sale deed for registration, they were not aware that restrain order has already been vacated.

3.2 Defendant No.2 – vendor denied the execution of the sale deed or receipt of consideration. According to him, plaintiff had requested him to stand guarantor for him in respect of loan, to which he (defendant No.2) had agreed. Plaintiff took him to Tehsil Gharaunda on the pretext of executing the guarantee deed and obtained his thumb impressions on several papers and later on, he came to know that instead of getting the guarantee deed prepared, plaintiff got prepared a sale deed. This defendant further pleaded that under the garb of declaration, plaintiff was claiming the relief of specific performance and so, the suit was not maintainable.

4. After framing issues and taking evidence, the trial Court dismissed the suit on 21.12.2015 and the First Appellate Court dismissed the appeal on 03.03.2020.

5. Assailing the above orders, it is contended by learned counsel for the appellant that since there was no restrain order of any Civil Court at the time of presentation of the sale deed, therefore, the Courts below committed error in dismissing the suit.

6. This Court does not find merit in the contention. As noticed by the Appellate Court, defendant No.2 i.e. alleged vendor of the plaintiff had denied

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the execution of the sale deed or to have received the consideration. In these circumstances, even if it be assumed that there was no restrain order of any Civil Court for registration of the sale deed, the Sub Registrar still could not be directed to register the sale deed, once the proposed vendor had denied the execution of the sale deed. It has been rightly observed by the Court below that under the garb of the suit for declaration, plaintiff is basically claiming the decree of specific performance against defendant No.2- vendor.

6. In view of the afore-said discussion, this Court does not find any ground so as to interfere in the concurrent findings as recorded by the Courts below. Dismissed.

March 11, 2025**renu****(DEEPAK GUPTA)****JUDGE**

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No