



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

201

**RSA-3831-1998 (O&M)
Reserved on:23.09.2025
Pronounced on:09.10.2025**

V.K. Sharma

... Appellant

Versus

Poonam Sardana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate, with
Mr. Shiv Kumar Sharma, Advocate
for the appellant.

Mr. N. S. Boparai, Advocate
Mr. Yogesh Bansal and Mr. Ankit Jangra, Advocates
for respondent No.1.

Mr. Anand Chhiber, Sr. Advocate with
Mr. Vaibhav Sahni, Advocate
for respondent No.2.

Name of respondent No.4 deleted vide order dated 14.09.1999.

AMARINDER SINGH GREWAL, J.

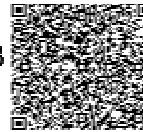
1. The plaintiff is the appellant before this Court challenging the judgment and decree dated 05.06.1997 passed by the learned trial Court dismissing the suit for possession by way of specific performance filed by the appellant-plaintiff and the judgment dated 14.09.1998 passed by the learned 1st Appellate Court vide which the appeal preferred by him against the aforesaid judgment and decree passed by the learned trial Court, has been dismissed.

2. For the sake of convenience, the parties shall be referred to in terms of their status before the trial court.



3. Succinctly, the facts of the case are that defendants No. 1 and 2, through defendant No. 3, agreed to sell the suit property to the plaintiff vide agreement to sell dated 20.06.1984, whereupon the plaintiff paid ₹8,100/- as earnest money through cheque and the bargain was struck with the intervention of defendant No. 4, a property dealer. The plaintiff thereafter requested the defendants to accept the balance sale consideration and obtain the requisite no due certificate, indemnity bond and permission to transfer, leading to execution of the sale deed. However, defendant No. 3, demanded more money than the amount agreed. Upon the plaintiff's refusal to the same, the defendants declined to perform their part of the contract, despite service of notice dated 26.07.1984 and a telegram dated 19.07.1984 wherein the plaintiff reiterated his readiness and willingness to complete the transaction. Hence the plaintiff filed the present suit seeking specific performance of the agreement to sell dated 20.06.1984, or in the alternative execution of the sale deed through court, along with a claim of ₹4,000/- as damages for the mental and economic harassment suffered.

4. Upon issuance of summons, defendants No. 1 to 3 appeared through counsel and filed their written statement on 12.11.1984, followed by an amended written statement on 07.04.1993, wherein they raised preliminary objections regarding maintainability of the suit, *locus standi* of the plaintiff, estoppel and jurisdiction. It was pleaded that the plaintiff himself committed breach of the agreement to sell dated 20.06.1984, thereby forfeiting the earnest money and all rights under the contract; that time was the essence of the agreement and that the suit was filed with mala fide intent since the plaintiff lacked funds to purchase the plot. They further pointed out that despite the court granting the last opportunity on 24.05.1985 to get the sale deed executed by 24.07.1985, the plaintiff absented



himself on 31.07.1985, resulting in dismissal of the suit in default, which was later restored on 15.10.1991 after an application for restoration. On merits, the execution of the agreement was admitted, but it was contended that the sale consideration was fixed at ₹81,000/- subject to variation on actual measurement, as the plot was a corner plot measuring over 10 marlas and that the defendants had obtained all requisite certificates and permissions and had even purchased stamp papers, but the plaintiff failed to decide whether the property should be registered in his own name or in his wife's name. In fact, the plaintiff was not financially capable of completing the transaction. Receipt of any notice or telegram from the plaintiff or defendant No. 4 was specifically denied. It was also averred that during pendency of the proceedings the defendants even offered to execute the sale deed in court on payment of the balance consideration, but the plaintiff did not avail the opportunity and is estopped by his own conduct. It was further explained that the plot was agreed to be sold keeping in view the marriage of defendant No. 3's daughter on 02.12.1984, but due to the plaintiff's default the transaction could not materialize, and that on actual measurement the plot was found to be 1210 sq. metres. Defendant No. 4, in his separate written statement, asserted that he was unnecessarily dragged into the litigation.

5. On the basis of pleadings, learned trial Court had framed as many as four issues including relief. On appreciation of oral as well as documentary evidence produced before it, the learned trial Court dismissed the suit of the plaintiff and the appeal preferred by him was also dismissed by the learned 1st Appellate Court. Hence, the regular second appeal.

6. Dr. Anmol Rattan Sidhu, learned Senior Counsel assisted by Mr. Shiv Kumar Sharma, Advocate appearing for the appellant-plaintiff contended that both



the Courts below erred in law in not deciding the issue of readiness and willingness correctly, as it were defendants-sellers, who repeatedly defaulted in performing their part of the agreement. Further, the application dated 25.04.1985 filed by the plaintiff remained undecided and the judgment was delivered without adjudicating upon the same and there is no evidence of defendants having obtained requisite documents before the target date, and their contradictory stands regarding the indemnity bond and HUDA permissions show deliberate attempts to mislead the Court. Furthermore, the appellant while appearing as PW1 specifically deposed to his readiness and availability of funds, duly supported by evidence of sale of jewellery and preparation of bank drafts, and his temporary non-appearance stood reasonably explained on account of the illness of his son and wife. Additionally, the defendants, despite being bound to furnish permission to transfer, no dues certificate and indemnity bond at least seven days prior to the execution of sale deed, failed to comply with the same and thus committed breach. They throughout adopted misleading and shifting stands, including fabricating documents such as Ex. D1 and D2, taking contradictory pleas in their written statement and evidence, and even attempting to dispose of the property otherwise, all of which demonstrate absence of readiness and willingness on their part, whereas the plaintiff had duly proved his readiness and willingness to perform his obligations under the contract. It was also contended that an application bearing No.12870-C of 2019 has been filed by the appellant-plaintiff stating that in the revision petition filed against the order dated 17.11.1995, this Court had reframed issue No.1 but the learned trial Court neither reframed the same nor rendered any finding thereon and therefore, the learned trial Court was bound to reframe the issue and decide the same accordingly.



7. Per contra, Mr. N.S. Boparai, Advocate and Mr. Anand Chhibbar, learned Senior Counsel assisted by Mr. Vaibhav Sahni, Advocate appearing for respondents No.1 and 2 respectively contended that the trial Court gave ample opportunities to the plaintiff to get the sale deed executed on various dates i.e. 12.03.1985, 14.03.1985, 06.04.1985, 16.04.1985, 20.04.1985, 27.04.1985 and 31.07.1985. Further, plaintiff himself has admitted documents Ex.D1 (cheque dated 29.06.1984), Ex.D2 (letter to permission to transfer the plot dated 29.06.1984) and Ex. D3 (letter dated 10.05.1985) in his cross-examination. Furthermore, the re-framed issue has already been decided by the learned trial Court. Hence, the concurrent finding rendered by both the Courts below is not to be interfered in the present appeal.

8. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court finds no force in the arguments advanced by learned counsel for the appellant-plaintiff. This Court is not persuaded to accept the contentions advanced on behalf of the appellant-plaintiff. The agreement to sell dated 20.06.1984 (Ex. P1) is not in dispute. The earnest money of Rs.8100/- was paid and the sale deed was to be executed by 20.07.1984. The case of the appellant is that he was always ready and willing to perform his part of the agreement. However, the material on record does not support such a plea. It is manifest from the proceedings before the learned trial Court that the appellant was afforded repeated opportunities on 12.03.1985, 14.03.1985, 06.04.1985, 16.04.1985, 20.04.1985, 27.04.1985 and 31.07.1985 to secure execution of the sale deed. The defendants, on their part, had obtained the requisite permission from HUDA, as evident from Ex. D1 to D6, and had also issued telegrams and notices, duly received by the appellant, calling upon him to complete the transaction.



Despite such opportunities, the appellant chose not to get the sale deed executed. In his cross-examination as PW1, he candidly admitted that although the defendants and even the Court had provided him various opportunities, he failed to avail the same. The explanation sought to be offered with respect to illness of his son remains wholly unsubstantiated and, in any event, was never contemporaneously communicated either to the Court or to the defendants.

9. In order to prove readiness and willingness, the appellant-plaintiff has to stand on his own legs and prove on record by leading cogent evidence that he was ready and willing to perform his part of the contract. However, in the case in hand, he miserably failed to do so. The learned 1st Appellate Court has extensively dealt with the issue of readiness and willingness on the part of the appellant-plaintiff by reproducing all zimni orders to conclude that during the conciliation proceedings, despite granting numerous opportunities, the appellant-plaintiff did not come forward to execute the sale deed. Thus, the finding rendered by both the Courts below that the appellant-plaintiff had failed to prove his readiness and willingness is correct and does not require any interference. It is evident from record that permission was granted by HUDA to transfer the plot in favour of the appellant-plaintiff vide Ex.D3 without insisting upon execution of a conveyance deed in favour of the vendors and despite the fact that the factum of obtaining permission to transfer the plot was brought to the knowledge of the appellant-plaintiff, he did not come forward to fulfill his part of the contract.

10. As regards the argument raised in misc. application bearing No.12870-C of 2019 that the learned trial Court had not rendered any finding on Issue No.1, which was reframed by this Court in C.R. No.4589 of 1995 is concerned, this Court finds that the same is devoid of merit. A perusal of judgment



and decree passed by the learned trial Court makes it crystal clear that the issue reframed by this Court as issue No.1 is verbatim of issue No.1 framed by the learned trial Court and the said issue was decided against the plaintiff and in favour of the plaintiff.

11. This Court is mindful of the settled principle that in a suit for specific performance, the plaintiff must establish continuous readiness and willingness, not merely at the stage of execution of the agreement but throughout the pendency of litigation, from the date of institution of the suit till the passing of the decree. The relief of specific performance is based on equitable principle and the equity demands that he who seeks equity must do equity, and thus a sporadic or selective intention to perform cannot suffice. On a cumulative appraisal, it is evident that while the defendants were ready and willing to perform their obligations, the plaintiff defaulted in performing his part of the agreement. The concurrent finding recorded by both the Courts below is based on correct appreciation of the evidence and cannot be said to be either perverse or contrary to law.

12. In view of the aforesaid facts and circumstances, this Court does not find any merit in the arguments raised by learned counsel for the appellant-plaintiff, much less, no substantial question of law arises for consideration. Consequently, the concurrent finding rendered by both the Courts below is upheld and the instant regular second appeal is dismissed.

13. Misc. application(s) pending, if any, also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

October 09, 2025

Pankaj*	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No