

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****210****RSA-1239-2013(O&M)****Date of decision: 11.03.2025****Joginder Singh****...Appellant(s)****Vs.****Satnam Singh****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Ravinder Kaur Manaise, Advocate  
for the appellant.

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**NIDHI GUPTA, J.**

The plaintiff is in second appeal against the judgments and decrees of the learned Courts below whereby the suit of the plaintiff for possession as owner by means of specific performance of agreement of sale dated 23.12.2005, has been decreed in the alternative relief of money decree by both the Courts below.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant as 'plaintiff' and the respondent as 'defendant'.

3. Brief facts of the case are that the defendant executed an agreement dated 23.12.2005 for sale of land (15 M) in favour of plaintiff for consideration of Rs.65,000/- and received earnest money of Rs.50,000/-. Sale Deed was to be executed by defendant on or before 15.05.2006 in favour of plaintiff. In case of violation of terms and conditions of agreement committed by defendant, plaintiff was entitled to get Sale Deed executed through Court or entitled to recover Rs.1,30,000/- i.e. Rs.65,000/- as



earnest money and Rs.65,000/- as damages on account of breach of agreement. On 15.05.2006, the plaintiff was ready and willing with money and waited for defendant in Tehsil Ahata, Gurdaspur for execution of Sale Deed in his favour but on same day at 4 pm, defendant came in Tehsil and promised to execute Sale Deed after 15 days. The defendant did not execute Sale Deed in favour of plaintiff and plaintiff issued him legal notice on 19.06.2006. Hence, present suit.

4. On notice, the defendant appeared and contested the suit by filing written statement inter alia stating that defendant never executed any alleged agreement dated 23.12.2005 for sale of his plot for consideration of Rs.65,000/-. Receiving of Rs.50,000/- as earnest money was denied; and it was stated that the defendant borrowed Rs. 15,000/- from the plaintiff in the year 2005 at which time the plaintiff got signatures of the defendant on blank paper on good faith. The plaintiff is moneylender and many cases filed by him in courts against the other persons at Gurdaspur, which are pending. The defendant returned the borrowed amount of Rs. 15,000/- to the plaintiff with 7% monthly interest. The plot in question is valuable and its value at present is about 4.00 lacs. The plaintiff in connivance with the scribe and marginal witness in order to blackmail the defendant got prepared false and forged agreement of sale. The defendant never agreed to execute a registered sale deed of suit land as alleged by the plaintiff. The alleged agreement is forged and fabricated document. The



remaining averments of the plaint were denied by the defendant and prayed for dismissal of the suit.

5. In replication, the plaintiff reiterated the averments made in the plaint and denied those made in the written statement.

6. On the basis of pleadings of the parties, following issues were framed by the learned trial Court:-

*“1) Whether the plaintiff is entitled to the relief of possession by way of specific performance of the agreement dated 23.12.2005? OPP*

*2) Whether the plaintiff is entitled to the alternative relief of recovery of Rs.1,30,000/- ? OPP*

*3) Whether the plaintiff has always been ready and is still ready and willing to perform his part of the contract? OPP*

*4) Whether the suit is not maintainable? OPD*

*5) Relief.”*

7. Upon appraisal of the evidence adduced before it, the learned trial court, vide judgment and decree dated 19.12.2010, decreed the suit of the plaintiff in the alternative for recovery of ₹1 lakh.

8. Against the above said judgment and decree dated 19.12.2010, two appeals were filed before the learned Lower Appellate Court. The first appeal was of the plaintiff for modifying the impugned judgment and decree by granting main relief of specific performance. The second appeal was filed by the defendant seeking dismissal of the suit of the plaintiff. Upon consideration the learned Lower Appellate Court observed that at one point of time, the learned trial Court held that the plaintiff did not remain ready and willing to perform his part of contract.



Yet, the plaintiff was awarded damages equivalent to the amount paid by him as earnest money. Accordingly, vide judgment and decree dated 12.10.2012, the learned Lower Appellate Court modified the impugned judgment and decree; and the suit was partly decreed in favour of plaintiff for recovery of Rs.50,000/- with interest @ 12% per annum from the date of payment till filing of the suit i.e. 03.08.2006. The plaintiff was further held entitled to pendente lite and future interest @ 6% per annum on principal sum of Rs.50,000/-. Hence, present second appeal by the plaintiff.

9. Ld. Counsel for the plaintiff, assails the concurrent decrees of the learned courts below by submitting that the plaintiff was ready and willing to perform his part of the contract. On 15.5.2006, the plaintiff had gone to the Tehsil Complex Gurdaspur along with balance amount for the execution of sale deed. However, it was the defendant who had verbally intimated the plaintiff that he will execute the sale deed after 15 days. Even this was accepted by the plaintiff, and therefore he did not mark his attendance in the office of the Sub Registrar Gurdaspur on that day. Yet the defendant did not execute the sale deed in favour of the plaintiff as promised by him. The plaintiff had even issued legal notice through his counsel to the defendant on 19.6.2006. But the defendant had refused to accept the notice which was returned to the plaintiff by postal Authority.

10. No other argument is made on behalf of the appellant.



11. I have heard learned counsel for the appellant and perused the case file in great detail.

12. I find no merit in the arguments advanced on behalf of the plaintiff. A perusal of the record reveals that although the plaintiff proved on record that defendant entered into Agreement of Sale dated 23.12.2005 (Ex.P-1) of suit land, yet he has been unable to prove his readiness and willingness to perform the contract. It is the contention of the plaintiff that he was present before office of Sub-Registrar Gurdaspur on 15.06.2006 for execution of Sale Deed and has waited for defendant till 4 pm and after verbal assurance of defendant, 15 days time has been given to defendant to execute Sale Deed but defendant did not execute same and plaintiff issued legal notice (Ex.P3) asking defendant to get Sale Deed executed up to 20.07.2006. However, it is the own case of the plaintiff that he did not get his presence marked before the Sub-Registrar on 15.6.2006. Thus, Plaintiff failed to prove that he was present before the Sub-Registrar on 15.6.2006 with the balance sale consideration. It was for the plaintiff to prove that he was ready and willing to perform his part of contract firstly on 15.06.2006 and secondly on 20.07.2006. But the plaintiff has failed to prove the legal requirement of his willingness and readiness to get Sale Deed registered in his favour.

13. Learned counsel for the appellant is unable to dispute or deny the aforesaid facts and findings.

14. In view of the above, present appeal is **dismissed**.



15. Pending application(s) if any also stand(s) disposed of.

**11.03.2025**

Sunena

**(Nidhi Gupta)  
Judge**

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