

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(201)

RSA-1199-1996 (O&M)
Reserved on:- 01.04.2026
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DESA SINGH **...Appellant**

Vs

RAWAIL SINGH (SINCE DECEASED) THROUGH HIS LRS AND ANOTHER **...Respondents**

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Shubham Bhalla, Advocate and
Mr. Gurkamal Singh Kandhola, Advocate
for the appellant.

Mr. Amit Jain, Senior Advocate with
Ms. Aeshna Jain, Advocate
for respondent No.1.

VIRINDER AGGARWAL, J. *(Oral)*

1. This Regular Second Appeal has been filed against the concurrent judgments of the courts below, whereby the appeal filed by the appellants/defendants was dismissed, and the judgment and decree passed by the trial court, decreeing the suit filed by the respondent/plaintiff for specific performance of the contract, was upheld.

2. Briefly stated, the respondent/plaintiff instituted a suit for possession by way of specific performance of an agreement to sell dated 28.05.1990, in respect of the suit land measuring 8 kanals, fully detailed and described in the plaint. Defendant No.1 entered into an agreement to sell with the plaintiff for 8 kanals of land out of a total holding of 10 kanals 12 marlas, for a total sale consideration of Rs. 40,000/-. A sum of Rs. 25,000/- was paid and received as earnest money on the date of execution of the

agreement. The sale deed was agreed to be executed on or before 28.05.1991. It is the case of the plaintiff that he remained ready and willing, and continues to remain ready and willing, to perform his part of the contract. On the stipulated date, the plaintiff appeared in the office of the Sub-Registrar, Mukerian, along with the balance sale consideration and necessary expenses; however, Defendant No.1 failed to turn up. The plaintiff, in order to demonstrate his bona fides, got an affidavit attested thereafter to afford another opportunity to Defendant No.1. A legal notice dated 05.09.1991 was served upon Defendant No.1, calling upon him to execute the sale deed on 12.09.1991. On the said date as well, the plaintiff remained present in the office of the Sub-Registrar with the balance sale consideration and requisite expenses, but Defendant No.1 again failed to appear. Hence, the present suit was filed. Defendant No.1 contested the suit by raising preliminary objections, *inter alia*, that the plaintiff had no cause of action and lacked *locus standi* to institute the present suit. On merits, it was contended that the alleged agreement to sell was the result of fraud, fabrication, and misrepresentation. According to defendant No.1, he had borrowed a sum of Rs. 25,000/- from the plaintiff at an interest rate of 12% per annum, and in acknowledgment thereof, a pronote was executed. It was further alleged that when the parties went to Mukerian for this purpose, the plaintiff, in connivance with the deed writer and witnesses, fabricated the alleged agreement to sell dated 28.05.1990. Defendant No.1 asserted that he is an illiterate person and came to know of the alleged agreement only upon receipt of summons in the present case. It was further pleaded that the market value of the land in question was not less than Rs. 80,000/- per acre.

While disputing the claim for specific performance, Defendant No.1 submitted that, at best, the plaintiff would be entitled to refund of Rs. 25,000/- along with interest @ 12% per annum, and prayed for dismissal of the suit. Defendant No.2 appeared but failed to file any written statement and was subsequently proceeded against *ex parte*. On the basis of the pleadings, following issues were framed:

> *1. Whether the defendants agreed to sell the disputed land in favour of the plaintiff and they also executed an agreement to sell dated 28.5.90 in his favour on receipt of Rs.25000/-as earnest money? OPP.*
> *2. Whether the plaintiff has always been ready and willing to perform his part of the contract? OPP.*
> *3. Whether the plaintiffs have no locus standi to file the present suit? OPD.*
> *4. If issue No.1 is established, whether the execution of the agreement to sell is the result of fraud and misrepresentation and is without consideration ?*
> *5. Relief.*

3. Both parties were afforded adequate opportunities to lead evidence. Upon appreciation of the evidence and after hearing the parties, the learned Additional Senior Sub-Judge, Dasuya, decreed the suit in favour of the plaintiff.

4. Aggrieved by the said judgment and decree, the appellants/defendants preferred an appeal, which too was dismissed. Consequently, the present Regular Second Appeal has been filed. Along with the appeal, an application under Order XLI Rule 27 CPC has also been moved for leading additional evidence. In the said application, it has been contended that the amount of Rs. 25,000/- was, in fact, obtained by the

applicant/appellant as a loan carrying interest @ 12% per annum. It is pleaded that the applicant, being a semi-illiterate person barely capable of affixing his signatures, could not properly lead evidence before the courts below. It is further averred that it is a common practice among moneylenders to obtain signatures on blank papers at the time of advancing loans, which are subsequently converted into agreements to sell in the event of default in repayment. It is also stated that, upon repayment of the loan, such documents are usually returned. The applicant has further asserted that, in the present case as well, he had taken a loan of Rs. 25,000/- at an interest rate of 12% per annum, but the respondent, acting dishonestly, instituted the suit for specific performance. It is additionally pleaded that on an earlier occasion, the applicant had raised a loan of Rs. 40,000/- at 12% interest and had signed blank documents, which were later converted into an agreement to sell dated 28.10.1988, fixing the sale consideration at Rs. 40,000/- and the date of execution of the sale deed as 29.10.1989. Upon repayment of the said loan, the document was returned to the applicant, and the same has been annexed as Annexure A-1 with the application. It is further submitted that there are several similar documents wherein blank signed papers of the applicant were subsequently converted into agreements to sell by different moneylenders, which were returned upon discharge of the loan along with interest. A few such documents are stated to be as follows:

> 1. Agreement dated 11.6.81 with one Man Singh with respect to Khasra No. 53/16(8-0), 63/15/2(4-12). A copy of the agreement in original is annexed herewith as Annexure A-2.
> 2. Agreement dated 11.12.84 with respect to the above said land for Rs. 16,000/- and executed with Man Singh. A copy of the agreement in original is attached herewith as Annexure A-3.

3. Agreement to sell dated 4.7.86 with one Bhag Singh with respect to Khasra no. 64/10 (8-0) share for Rs. 4,000/-.

A copy of the agreement is attached herewith as Annexure A-4.

4. Agreement to sell dated 8.1.87 with one Man Singh with respect to khasra no. 53/16 (8-0), 63/15/2(4-12) for Rs. 8440/-A Copy of Agreement is Annexure A-5.

5. Agreement dated 24.7.90 with respect to Rectangle no. 54, Khasra no. 10 measuring BK-CM for Rs. 15,000/-. A copy of the agreement is attached as Annexure A-6.

5. The aforesaid documents, according to the applicant/appellant, clearly establish that the agreement to sell in the present case is also of a similar nature, having been allegedly procured in the course of a money-lending transaction. It is further contended that the respondent is, in fact, a moneylender and had, on an earlier occasion, also executed an agreement to sell in respect of the very same property. In these circumstances, the applicant submits that, in the interest of justice and fair play, and to enable this Court to effectively and conclusively adjudicate upon the dispute between the parties, permission ought to be granted to lead the aforesaid additional evidence.

6. The said application has been contested by the respondent/plaintiff by filing a written reply. Preliminary objections have been raised, *inter alia*, that the applicant has no *locus standi* to file the present application and that the same is not maintainable. On merits, however, it is admitted that the applicant had entered into an agreement to sell dated 28.05.1990 in respect of the suit land. It is further pleaded by the respondent that, prior to the said agreement, an earlier agreement to sell dated 28.10.1988 had been executed between the parties, pursuant to which

the respondent had paid a sum of Rs. 20,000/- as earnest money. It is alleged that when the stipulated date for execution of the sale deed arrived, the applicant failed to perform his part of the contract. Thereafter, upon being approached by the respondent, the applicant agreed to execute a fresh agreement to sell dated 28.05.1990 after receiving an additional amount of Rs. 5,000/- as earnest money, thereby bringing the total earnest amount to Rs. 25,000/-. The applicant is stated to have again undertaken to execute the sale deed on the agreed date upon receipt of the balance sale consideration. The respondent has further pleaded that the earlier agreement to sell dated 28.10.1988 was returned to the applicant in good faith at the time of execution of the subsequent agreement. The allegations regarding any prevalent practice of obtaining signatures on blank papers and converting them into agreements to sell have been specifically denied. It is asserted that no such practice exists in the village. It is also contended that the documents now sought to be produced by the applicant have been fabricated and created solely with a view to defeat the legitimate rights of the respondent and to avoid execution of the sale deed. The respondent has categorically denied being a moneylender, asserting instead that he is an agriculturist who had entered into the agreement to purchase the suit land for valid and valuable consideration. On these grounds, the respondent has prayed for dismissal of the application for additional evidence.

7. The appeal was admitted for hearing vide order dated 17.03.2017, and the record was accordingly summoned. I have heard learned counsel for the parties and have carefully perused the record.

8. Learned counsel for the appellant/applicant contended that the proposed additional evidence is necessary for the proper and effective adjudication of the present appeal and would assist this Court in arriving at a just and fair conclusion. It is submitted that the said evidence is material for the decision of the case, and reliance has been placed upon the judgment of the Hon'ble Apex Court in ***North Eastern Railway Administration, Gorakhpur vs. Bhagwan Dass (Dead) by LRs*, (2008) 8 SCC 511**. It is further argued that, in view of the admission made by the respondent/plaintiff in the reply to the application regarding the existence of an earlier agreement to sell, it becomes evident that the agreement in question was never intended to be acted upon as a genuine contract for sale, but rather functioned merely as a security document in the nature of a loan transaction. In such circumstances, it is contended that permitting additional evidence would be essential to bring the true nature of the transaction on record. Learned counsel further submitted that there is no cogent evidence on record to establish that the respondent/plaintiff remained ready and willing throughout to perform his part of the contract. It is emphasized that "readiness" and "willingness" are distinct legal requirements. To establish readiness, the plaintiff must demonstrate that he possessed sufficient financial capacity to perform his obligations under the contract. According to the appellant, such evidence is conspicuously absent in the present case, and both the courts below have failed to properly appreciate this crucial aspect. On these grounds, it is prayed that the application for additional evidence be allowed, and upon consideration of such evidence, the present

appeal be accepted by setting aside the judgments and decrees passed by the courts below.

9. Per contra, learned counsel for the respondent/plaintiff opposed the application as well as the appeal, contending that the application for additional evidence is not maintainable in law. It is submitted that it is a settled principle that evidence must remain confined to the pleadings of the parties, and no evidence beyond the scope of the pleadings can be entertained at this stage. It is further contended that the respondent/plaintiff has duly established on record that he remained ready and willing to perform his part of the contract throughout. Learned counsel argued that, for proving readiness, it is not necessary for the plaintiff to physically carry the entire sale consideration at all times; rather, the overall conduct of the parties and the surrounding circumstances must be considered to determine whether the plaintiff was ready and willing to perform his obligations. It is also submitted that the findings recorded by both the courts below are based on proper appreciation of evidence and do not suffer from any illegality or perversity warranting interference by this Court. Accordingly, it is prayed that both the appeal as well as the application seeking permission to lead additional evidence be dismissed, and the judgments and decrees passed by the courts below be affirmed.

10. Insofar as the application for additional evidence is concerned, learned counsel for the appellant/applicant has placed reliance upon the judgment of the Hon'ble Apex Court in ***North Eastern Railway Administration, Gorakhpur vs. Bhagwan Dass (Dead) by LRs*** **(supra)**. In the said judgment, the Hon'ble Supreme Court, after considering and relying

upon the earlier law laid down by the Privy Council as well as in ***K. Venkataramiah vs. A. Seetharama Reddy, AIR 1963 SC 1526***, has held that additional evidence may be permitted where the Court finds that, in the interest of justice, certain aspects which remain obscure need to be clarified so as to enable the Court to pronounce its judgment in a more satisfactory and effective manner. The Hon'ble Court has observed as under:

> *13. Though the general rule is that ordinarily the appellant court should not travel outside the record of the lower court and additional evidence, whether oral or documentary is not admitted but Section 107 CPC, which carves out an exception to the general rule, enables an appellate court to take-additional evidence or to require such evidence to be taken subject to such conditions and limitations as may be prescribed. These conditions are hprescribed under Order 41 Rule 27 CPC. Nevertheless, the additional evidence can be admitted only when the circumstances as stipulated in the said Rule are found to exist. The circumstances under which additional evidence can be adduced are:*
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> *(i) the court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted [clause (a) of sub-rule (1)], or*
>
> *(ii) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within the knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed [clause (aa), inserted by Act 104 of 1976], or*
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> *(iii) the appellate court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause [clause (b) of sub-rule (1)].*
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> *14. It is plain that under clause (b) of sub-rule (1) of Rule 27 Order 41 CPC, with which we are concerned in the*

instant case, evidence may be admitted by an appellate authority if it "requires" to enable it to pronounce judgment "or for any other substantial cause". The scope of the Rule, in. particular of clause (b) was examined way back in 1931 by the Privy Council in Parsotim Thakur v. Lal Mohar Thakur, While observing that the provisions of Section 107 as elucidated by Order 41 Rule 27 are clearly not intended to allow litigant, who has been unsuccessful in the lower court, to patch up the weak parts of his case and fill up omissions in the court of appeal, it was observed as follows: (AIR p. 148)

"... Under clause (1)(b) it is only where the appellate court "requires" it (i.e. finds it needful) that additional evidence can be admitted. It may be required to enable the court to pronounce judgment or for any other substantial cause, but in either case it must be the court that requires it. This is the plain grammatical reading of the sub-clause. The legitimate occasion for the exercise of this discretion is not whenever before the appeal is heard a party applies to adduce fresh evidence, but when on examining the evidence as it stands some inherent lacuna or defect becomes apparent'."

15. Again in K. Venkataramiah v. A. Seetharama Reddy a Constitution Bench of this Court while reiterating the aforenoted observations in Parsotim case pointed out that the appellate court has the power to allow additional evidence not only if it requires such evidence "to enable it to pronounce judgment" but also for "any other substantial cause". There may well be cases where even though the court finds that it is able to pronounce judgment on the state of the record as it is, and so, it cannot strictly say that it requires additional evidence "to enable it to pronounce judgment", it still consider that in the interest of justice something which remains obscure should be filled up so that it can pronounce its judgment in a more satisfactory manner. Thus, the question whether looking into the documents, sought to be filed as additional evidence, would be necessary to pronounce judgment in a more satisfactory *manner, has to be considered by the Court at the time of hearing of the appeal on merits.*

11. There can be no dispute with regard to the settled proposition of law that where certain evidence, essential for an effective and just adjudication of the *lis* between the parties, could not be produced at the appropriate stage, the Court may, in appropriate cases, permit the same to be brought on record by way of additional evidence. However, this principle is not without limitations. It is equally well-settled that any evidence sought to be adduced must remain strictly within the scope of the pleadings of the parties. Evidence which travels beyond the pleadings is liable to be rejected outright. The pleadings constitute the very foundation of a case, and the evidence led by the parties must be in support of the case set up therein. Any structure of proof must necessarily rest upon this foundational base. If parties are permitted to go beyond their pleadings and introduce new facts or evidence at a later stage, it would not only prejudice the opposite party, who would be taken by surprise, but would also disturb the settled framework of adjudication. Such a course could potentially open the door for the opposite party to introduce further evidence in rebuttal, which may again travel beyond the original pleadings, thereby setting in motion an unending chain of claims and counterclaims with no finality. For this reason, the law mandates that parties must confine their evidence to their pleadings. When a party cannot be permitted to lead evidence beyond the pleadings at the trial stage, there arises no question of permitting such evidence to be introduced at a later stage by way of additional evidence, particularly at the stage of a second appeal, where the scope of interference itself is limited.

12. In order to examine the contention raised by the applicant/appellant as to whether the proposed additional evidence falls within the ambit of the pleadings, it becomes necessary to scrutinize the case set up in the written statement filed by applicant/defendant No.1. A perusal of the written statement reveals that the specific plea taken by the applicant/defendant No.1 is that the agreement to sell in question is the result of fraud, fabrication, and misrepresentation. It has been categorically pleaded that the applicant had borrowed a sum of Rs. 25,000/- from the plaintiff at an interest rate of 12% per annum, and in acknowledgment thereof, a pronote was executed. It is further alleged that when the parties went to *Mukerian* for this purpose, the plaintiff, in connivance with the deed writer and witnesses, fraudulently prepared and got executed the agreement to sell dated 28.05.1990. However, significantly, there is no averment whatsoever in the written statement to the effect that there existed any prior agreement to sell between the parties, particularly the alleged agreement dated 28.10.1988, nor is there any plea that a sum of Rs. 40,000/- had earlier been borrowed at an interest rate of 12% per annum or signatures of respondent having been obtained on blank paper. Similarly, there is no foundation laid in the pleadings regarding any alleged prevailing practice among moneylenders of obtaining signatures on blank stamp papers and subsequently converting them into agreements to sell. Thus, the entire case now sought to be introduced by way of additional evidence, namely, the existence of an earlier agreement, the alleged pattern of transactions, and the purported practice of moneylenders is clearly beyond the scope of the pleadings contained in the written statement. The original defence, as

pleaded, is confined to a specific allegation of fraud in relation to the agreement dated 28.05.1990 arising out of a loan transaction of Rs. 25,000/-. In view of the settled principle of law that parties are bound by their pleadings and cannot be permitted to travel beyond them, the applicant cannot be allowed to introduce an altogether new case at the stage of second appeal under the guise of leading additional evidence. Permitting such evidence would fundamentally alter the nature of the defence and cause serious prejudice to the respondent. Accordingly, the proposed additional evidence, being beyond the scope of the pleadings, cannot be permitted to be brought on record. Consequently, the application filed by the applicant/appellant seeking permission to lead additional evidence is hereby dismissed.

13. Insofar as the issue of readiness and willingness is concerned, both the courts below have concurrently held that the respondent/plaintiff has led ample evidence to establish that he remained ready and willing to perform his part of the contract. In support of his case, the respondent/plaintiff produced and proved on record affidavits Ex. P-2 and Ex. P-3, legal notice Ex. P-4, postal receipts Ex. P-5 and Ex. P-6, and the acknowledgment receipt Ex. P-7. This evidence collectively demonstrates that the plaintiff remained present in the office of the Sub-Registrar on the stipulated date, along with the balance sale consideration and necessary expenses; however, the appellant/defendant failed to appear. The plaintiff, in order to substantiate his presence, got his attendance recorded by way of affidavit Ex. P-2. Thereafter, the plaintiff issued a legal notice dated 05.09.1991 (Ex. P-4), calling upon the appellant/defendant to execute the

sale deed on 12.09.1991. The said notice was duly dispatched through postal receipts Ex. P-5 and Ex. P-6, and its service upon the appellant/defendant stands proved by acknowledgment receipt Ex. P-7. In compliance with the said notice, the respondent/plaintiff again appeared in the office of the Sub-Registrar on 12.09.1991 with the balance sale consideration and requisite expenses; however, the appellant/defendant once again failed to turn up. The plaintiff then got an affidavit Ex. P-3 attested to evidence his presence on the said date.

14. Learned counsel for the appellant, however, contended that the respondent/plaintiff has failed to specifically plead and prove that the balance amount payable to the appellant/defendant was ever actually tendered, which, according to him, is a mandatory requirement under Section 16(c) of the Specific Relief Act read with Forms 47 and 48. In support of this contention, reliance has been placed upon the judgment of the Hon'ble Apex Court in ***U.N. Krishnamurthy (since deceased) through legal representatives vs. A.N. Krishnamurthy***, **(2023) 11 SCC 775**, wherein it has been held as under:

> *"Section 16(c) of the Specific Relief Act, 1963 bars the relief of specific performance of a contract in favour of a person, who fails to aver and prove his readiness and willingness to perform his part of contract. In view of Explanation (i) to clause (c) of Section 16, it may not be essential for the plaintiff to actually tender money to the defendant or to deposit money in court, except when so directed by the Court, to prove readiness and willingness to perform the essential terms of a contract, which involves payment of money. However. Explanation (ii) says the plaintiff must aver performance or readiness and*

willingness to perform the contract according to its true construction.

24. To aver and prove readiness and willingness to perform an obligation to pay money, in terms of a contract, the plaintiff would have to make specific statements in the plaint and adduce evidence to show availability of funds to make payment in terms of the contract in time. In other words, the plaintiff would have to plead that the plaintiff had sufficient-funds or was in a position to raise funds in time to discharge his obligation under the contract. If the plaintiff does not have sufficient funds with him to discharge his obligations in terms of a contract, which requires payment of money, the plaintiff would have to specifically plead how the funds would be available to him. To cite an example, the plaintiff may aver and prove, by adducing evidence, an arrangement with a financier for disbursement of adequate funds for timely compliance with the terms and conditions of a contract involving payment of money."

15. The question of whether the plaintiff remained ready and willing to perform his part of the contract is essentially a matter of fact and must be assessed in light of the specific circumstances of each case. The law recognizes a distinction between "readiness" and "willingness": readiness refers to the plaintiff's preparedness and intention to perform the contractual obligations, while willingness is manifested through conduct and tangible steps taken to fulfill those obligations. This requirement persists from the date of execution of the agreement to sell up to the date of the decree. In this regard, the Hon'ble Supreme Court, in ***Sukhbir Singh and others vs. Brij Pal Singh and others, (1997) 2 SCC 200***, has held as under:

"what requires to be considered is whether the essential facts constituting the ingredients under Section 16(1)(c) of the Act were pleaded and that found mentioned in Forms 47 and 48 prescribed in Appendix AA of CPC do

in substance point to those facts. The procedure is the handmaid to the substantive rights of the parties. It was clear in this case from a perusal of the pleadings and the forms that the averments were consistent with the forms. When the respondents had pleaded and proved by the Sub-Registrar's endorsement that the respondents were present in the office of the Sub-Registrar for having the sale deed executed and registered by the petitioners. it would be explicit that the respondents were ready and willing to perform their part of the agreement. The facts that the petitioners did not attend the office would prove positively that the petitioners had avoided execution of the sale deed. It is not a condition that the respondents should have ready cash with them. The fact that they attended the Sub-Registrar's office to have the sale deed executed and waited for the petitioners to attend the office of the Sub-Registrar is a positive fact to prove that they had necessary funds to pass on consideration and had with them the needed money with them for payment at the time of registration. It is sufficient for the respondents to establish that they had the capacity to pay the sale consideration. It is not necessary that they should always carry the money with them from the date of the suit till the date of the decree. Therefore, respondents' suit for specific performance of the agreement of reconveyance of the land was rightly decreed."

16. The Hon'ble Apex Court has held in ***Madhukar Nivrutti Jagtap and others vs. Pramilabai Chandulal Parandekar (Dead) through Legal Representatives and others***, (2020) 15 SCC 731, that:

"Readiness and willingness of plaintiffs

The question as to whether the plaintiff seeking specific performance has been ready and willing to perform his part of the contract is required to be examined with. reference to all the facts and the surrounding factors of the given case. The requirement is not that the plaintiff should continuously approach the defendant with payment or make incessant requests for performance. For the relief of specific performance, which is essentially a species of *equity but has got statutory recognition in terms of the Specific Relief Act, 1963, the plaintiff must be found standing with the contract and the plaintiff's conduct should not be carrying any such blameworthiness so as to be considered nequitable. The requirement of readiness and willingness of the plaintiff is not theoretical in nature but is essentially a question of fact, which needs to be determined with reference to the pleadings and evidence of parties as also to all the material circumstances having bearing on the conduct of parties, the plaintiff in particular."*

17. In the present case, the plaintiff has specifically pleaded in paragraph 4 of the plaint that, on the stipulated date, he remained present in the office of the Sub-Registrar, *Mukerian*, with the balance sale consideration and was ready and willing to perform his part of the contract, but defendant No.1 failed to appear. To substantiate his presence, the plaintiff got an affidavit attested by the Executive Magistrate, which is exhibited as Ex. P-2. Further, in paragraph 8 of the plaint, the plaintiff has reiterated that he continues to be ready and willing to perform his part of the contract and is prepared to pay the balance sale consideration, whereas the default in executing the agreement lies solely with defendant No.1. Thus, the plaint contains specific averments disclosing all the necessary ingredients required under Section 16(1)(c) of the Specific Relief Act. The plaintiff has also led ample evidence on record to prove that he remained present at the office of the Sub-Registrar on the stipulated dates with the balance sale consideration and necessary expenses. This includes the affidavit attested by the Executive Magistrate (Ex. P-2), the legal notice issued to the appellant/defendant calling upon him to execute the sale deed on 12.09.1991 (Ex. P-4), and the postal receipts (Ex. P-5 & P-6) along with the

acknowledgment receipt (Ex. P-7), which establish that the notice was duly received by the appellant/defendant. Despite the plaintiff's compliance with all formalities, including attending the Sub-Registrar's office on 12.09.1991 with the balance sale consideration and expenses, the appellant/defendant failed to appear. Thereafter, without unnecessary delay, the plaintiff filed the present suit on 24.09.1991. The overall conduct of the plaintiff clearly demonstrates that he was both ready and willing to perform his part of the contract. The findings to this effect, as recorded by both the trial Court and the First Appellate Court, are based on a proper appreciation of the evidence on record and, therefore, do not call for any interference.

18. Accordingly, the appeal, as well as the application filed by the appellant seeking permission to lead additional evidence, are hereby dismissed. The judgment and decree passed by the First Appellate Court is affirmed. The plaintiff's suit for joint possession of the suit property by way of specific performance of the agreement to sell dated 28.05.1990 is decreed with costs. The respondent/plaintiff is directed to deposit the remaining sale consideration in the trial Court within a period of two months from the date of this decree. The appellant/defendant is directed to execute the sale deed within one month thereafter. In the event of failure to comply, the respondent/plaintiff shall be at liberty to have the sale deed executed through the Court.

19. Pending applications(s), if any shall stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

10.04.2026
kv

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