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SOHAN SINGH

v.

SARWAN SINGH AND ORS.

AUGUST 19, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

C

Agreement for sale—Payment of part money—Balance to be paid at the time of registration—Vendee paying balance amount by way of bank draft instead of cash—Vendor refusing to receive draft and failing to execute the sale deed—Courts granting decree of specific performance on the ground that vendor committed breach of contract—Appeal—Held Bank draft is as good a payment of the consideration as cash—The courts below have not committed any manifest error of law to decree the suit for specific performance.

D

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 15210 of 1996.

From the Judgment and Order dated 20.2.96 of the Punjab & Haryana High Court in R.S.A. No. 333 of 1996.

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Ujjagar Singh, Devendra Verma and Naresh Bakshi for the Petitioner.

The following Order of the Court was delivered :

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This special leave petition has been filed against the judgment and order of the Punjab and Haryana High Court at Chandigarh made in Second Appeal No. 333/96. The admitted position is that the petitioner had entered into an agreement on June 14, 1986 for sale of land admeasuring 6 Kanals 13 marlas for consideration of Rs. 85,000 per killa and received Rs. 6,000 as earnest money and balance amount was agreed to be paid on registration. The sale deed was to be executed by July 15, 1987. Since the

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petitioner failed to execute the sale deed, the respondent filed suit for specific performance. All the courts below have concurrently found, as a fact, that respondent had presented a bank draft for the balance consideration of Rs. 64,000 at the time of registration and that the petitioner refused to receive the same. Bank draft is as good a payment of the consideration

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as cash. The petitioner committed breach of the conditions in the perfor-

mance of the contract. Accordingly, the decree for specific performance was granted. It is contended for the petitioner that payment by way of bank draft is not payment of the consideration by cash at the time of the registration of sale deed by sub-Registrar. Therefore, the petitioner committed no breach of any part of the contract. On the other hand, the respondent-plaintiff committed breach of contract in not paying cash consideration at the time of registration in terms of the agreement. The courts below have committed manifest error of law in decreeing the suit for specific performance of the contract. We find no force in the contention. The payment by way of bank draft is as good a payment as cash-in-hand. Instead of bringing the cash, he had brought bank draft. Under these circumstances, the demand for payment of cash by the petitioner would be had from the bank who would honour the same on behalf of the respondent. The petitioner rightly presented the bank draft at the time of negotiation which is legal tender of cash payment to the vendor/petitioner. The refusal for receiving bank draft at the time of registration of the petitioner, therefore, is a breach of the covenant in terms of the agreement. The courts below have not committed by manifest error of law to decree the suit for specific performance warranting interference.

The special leave petition is accordingly dismissed.

T.N.A.

Petition dismissed.