

**Devendra Singh Vs. Faulal and Ors**

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**SooperKanoon Citation :** [sooperkanoon.com/67955](http://sooperkanoon.com/67955)

**Court :** Rajasthan Jodhpur

**Decided On :** Jan-13-2016

**Appellant :** Devendra Singh

**Respondent :** Faulal and Ors

**Judgement :**

S.B.CIVIL MISC.

APPEAL NO.133/2016 Devendra Singh versus Faulal & ORS.Judgment, Wednesday dated 13.01.2016 1 of 5 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR ::

JUDGMENT

:: S.B.CIVIL MISC.APPEAL NO.133/2016 Devendra Singh s/o Shri Girdhari Singh versus Faulal s/o Shri Chhagan Lal & ORS.Date of Order :: Wednesday, 13th January, 2016.

PRESENT HON'BLE DR.

JUSTICE VINEET KOTHARI Appearance: Mr.Rameshwar Dave for the plaintiff-appellant.

<<>> 1.

The plaintiff-appellant-Devendra Singh s/o Shri Girdhari Singh in the present suit for specific performance has filed the present appeal, aggrieved by the rejection of his temporary injunction application by the learned trial court of Additional District Judge, Jaitaran, District Pali vide order dated 20.10.2015 in Civil Misc.

Case No.34/2012 - Devendra Singh versus Faulal & Ors., with the following findings and observations:- 10.

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APPEAL NO.133/2016 Devendra Singh versus Faulal & ORS.Judgment, Wednesday dated 13.01.2016 2 of 5 2 13 " 10 " - 2 0 13 % " 2 " 6 \* - 0 \* : % \* ! % & ! @6 - ! \* 10 @6 \* - 0 \* @6 ! \* % % \* - 0 10 0 \* \* \* %: 0 % \* % 0 - \* 11.

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APPEAL NO.133/2016 Devendra Singh versus Faulal & ORS.Judgment, Wednesday dated 13.01.2016 3 of 5 12.

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S.B.CIVIL MISC.

APPEAL NO.133/2016 Devendra Singh versus Faulal & ORS.Judgment, Wednesday dated 13.01.2016 4 of 5 2.

Having heard the learned counsel for the plaintiff- appellant, Mr.Rameshwar Dave, this Court is satisfied that no interference in the impugned order is called for.

3.

Since as against the agreed sum of Rs.6,38,000/- for purchase of the suit property, an agricultural land in KhaSr.No.519/1 of 4 bighas 8 biswas situated at Village Baidkallan, Jaitaran, District Pali, the plaintiff-appellant admittedly paid only

a sum of Rs.1,00,000/-, which too has been disputed by the defendant-vendor, who subsequently, sold the suit land in question in favour of defendants-respondents No.4 and 5, namely, Aduram Gehlot s/o Badrilal Gehlot and Babu Lal Gehlot s/o Ramchandra Gehlot respectively.

The plaintiff-appellant had prayed for cancellation of that sale deed also.

4.

The contention of the learned counsel for the plaintiff-appellant, Mr.Rameshwar Dave that he was ready and will to perform his part of the contract and the suit was filed immediately after the sale deed was executed by the defendant- vendor in favour of private respondents No.4 and 5-defendants, namely, Aduram Gehlot s/o Badrilal Gehlot and Babu Lal Gehlot s/o Ramchandra Gehlot respectively, is not relevant at the present stage, since the suit is pending and the merits iof the contentions raised by the learned counsel for the plaintiff- S.B.CIVIL MISC.

APPEAL NO.133/2016 Devendra Singh versus Faulal & ORS.Judgment, Wednesday dated 13.01.2016 5 of 5 appellant are yet to be examined by the learned trial court on the basis of evidence led by him.

At this stage, neither the equity nor facts and circumstances of the case are strongly in favour of the plaintiff-appellant, to grant temporary injunction in his favour, except observing that any further alienation, if any, of the suit land in question shall remain subject to the suit filed by the plaintiff-appellant, in view of Section 52 of the Transfer of Property Act.

5.

With these observations, the present appeal is disposed of.

No costs.

Copy of this order may be sent to the concerned parties as well as the learned court below forthwith.

(Dr.

VINEET KOTHARI).J.

/skant//15(m) /

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