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

CR No.2190 of 2013 (O&M)

Date of decision: July 24, 2015

Harnam Singh and another

.....Petitioners

Versus

Mool Chand

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K. Monga, Advocate
for the petitioners.

Mr. Arun Singla, Advocate
for the respondent.

SABINA, J

Petitioners have filed this petition challenging the order dated 18.12.2012, whereby, application moved by the petitioners under Section 28(1) of the Specific Relief Act, 1963 ('Act' for short), was dismissed.

Learned counsel for the petitioners has submitted that despite the passing of the decree in favour of the decree-holder, he had failed to deposit the balance sale consideration within the stipulated period. Therefore, the application moved by the petitioners under Section 28(1) of the Act was liable to be allowed.

Learned counsel for the respondent, on the other hand has submitted that as per the decree, petitioners were directed to execute the sale-deed in favour of the respondent within a period of two months from the date of receipt of copy of the judgment, after receiving the sale-consideration. Learned

counsel has further submitted that the petitioners had received the copy of the judgment on 06.09.2006 and the sale-deed was to be executed by the petitioners within two months from 06.09.2006. Respondent had deposited the balance sale consideration before the trial Court on 30.10.2006.

In the present case, respondent had filed suit for specific performance of agreement to sell dated 12.06.1998 against the petitioners. The suit filed by the respondent was decreed vide judgment/decreed dated 29.04.2006. Trial Court while decreeing the suit of the respondent held as under:-

“As a sequel to the findings of this Court on the foregoing issues, suit of the plaintiff succeeds and the same is hereby decreed with costs. The defendants are directed to receive remaining amount of sale consideration, i.e. 87,625/- from the plaintiff and to execute a sale deed in respect of property detailed and described in the head note of the plaint and get the same registered within a period of two months from the date of receipt of copy of this judgment, failing which it shall be open to the plaintiff to get the sale deed executed and registered through Court. Un-exhibited documents be returned as per rules. Decree sheet be drawn. File be consigned”.

Thus, the trial Court had directed the defendants to receive the remaining amount of sale consideration from the plaintiff and execute decree in favour of the plaintiff within a period of two months from the date of receipt of copy of the judgment by them (defendants). Trial Court had not directed the plaintiff to deposit the balance sale consideration within a

particular period. Rather, the defendants were directed to execute the sale-deed in favour of the plaintiff within two months from the date of receipt of copy of the judgment after receiving balance sale consideration. In case, it was not done, plaintiff was given a liberty to seek execution of the decree.

During the course of arguments, it has transpired that the defendants had received the copy of the judgment on 06.09.2006. Thus, the defendants were to execute the decree within two months from the said date. Plaintiff deposited the balance sale consideration before the trial court on 30.10.2006. Since the sale deed was not executed by the defendants in favour of the plaintiff within two months of the receipt of copy of the judgment, plaintiff sought execution of the decree. In the facts and circumstances of the present case, the application moved by the petitioners under Section 28(1) of the Act was liable to be dismissed.

Hence, no ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

July 24, 2015
mahavir