

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2890 of 2012 (O&M)

Date of Decision.06.07.2015

Surinder Kaur

.....Petitioner

Versus

Madan Lal and another

.....Respondents

Present: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Aman Dhir, Advocate
for the petitioner.

Mr. Munish Goel, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. With the consent of both the parties, the main case itself is taken up today for disposal.
2. The revision petition is against the order of the District Judge dismissing the application filed under Section 5 of the Limitation Act in preferring the appeal against the decision of the trial Court dismissing the plaintiff's suit. Along with the application, there was also prayer for stay of proceedings before the Consumer Forum from proceeding in execution in relation to the property over which the petitioner was making a claim. The application was dismissed.
3. There had been a delay of more than 600 days in filing the appeal and the plaintiff-appellant was giving an explanation that he was prosecuting the case before the State Commission and the National

Commission against the order passed by the District Forum in proceedings in execution with reference to the very same subject matter. The Court while dismissing the application under Section 5 of the Limitation Act also declined to grant any stay against execution before the District Forum.

4. The revision petition is filed by the plaintiff pointing out to the fact that there is an adjudication regarding title that falls relevant for consideration in appeal particularly in view of the fact that the point urged is that he has purchased the property from the person claiming through judgment debtor much before the award of the District Forum and he was himself a bona fide purchaser. The plaintiff would point out to the fact that the judgment debtor had sold the property on 10.05.1999 to one Narnder Singh who in turn sold to the plaintiff's vendor. This sale by the judgment debtor in May, 1999 was prior to the lodging of complaint by the decree-holder against the judgment-debtor before the District Forum which was done only in November, 1999. According to him, therefore, the property which is attached and brought for sale in execution of the award before the District Forum is not competent.

5. I find that there is surely an issue for consideration in appeal on title relating to immovable property and the issue of bona fides is also relevant, for, the source of title is of the judgment debtor but the plaintiff would contend that the transaction of sale by the judgment debtor had taken place even before any complaint before the District Forum. If there was a delay of 600 days and the plaintiff would refer to the pendency of other proceedings in relation to the very same subject

matter in the hierarchy of consumer forums, I would find the explanation given to be reasonable but for being wholly indiscreet and allowing for an enormous delay of two years, I would impose a costs of ₹ 25,000/- against the petitioner to be deposited within a period of 8 weeks from today before the District Court where the appeal is sought to be filed. On such deposit, the respondent would be at liberty to withdraw the same without any security. If the amount is not deposited as directed, the order already passed shall stand confirmed and the petitioner will not have the benefit of fresh hearing.

6. If the amount is deposited as directed, the order passed by the Court below shall stand set aside and the delay in filing the appeal shall be taken as condoned and the appeal will be registered and posted for hearing for disposal in accordance with law.

7. The civil revision is disposed of on the above terms.

(K. KANNAN)
JUDGE

July 06, 2015
Pankaj*