

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

C.R. No.3110 of 2015

Date of Decision.08.05.2015

Rachhpal Singh

.....Petitioner

Versus

Dilbagh Singh

.....Respondents

Present: Mr.P.S. Khurana, Advocate
for the petitioner.

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. The decree-holder in suit for specific performance that was decreed on 15.04.2008 sought through an application to deposit the balance of sale consideration on the failure of the defendant to execute the sale deed as per the stipulation contained in the decree through an application filed on 09.05.2009. The Court permitted the plaintiff to deposit the sale consideration and the further process in execution was taken. The defendant's contention was that there was direction for execution of the sale deed within a period of three months and it must be understood as a direction for deposit of the sale consideration in Court within a period of three months. If the decree had been passed, therefore, on 15.04.2008, the deposit ought to have been made before 15.07.2008 and when the same having been done, the decree is bound to be rescinded through the orders of Court by virtue of powers under Section 28 of the Specific Relief Act.

2. I have seen through the decree. The decree contains the following expressions:-

“.....The defendant is directed to execute and got registered the sale deed in favour of the plaintiff after receiving balance amount within three months from the date of passing of this judgment and decree, failing which plaintiff will be entitled to get executed and registered the sale according to law by filing execution. Further defendant stands restrained from alienating the suit land to any body else.”

3. The Court that passes a decree for specific performance is normally expected to stipulate a specific time before when the amount shall be deposited. I noticed that the decree does not find any such expression for time for deposit by a particular period. On the other hand, it merely stipulates a period before when the defendant shall execute the sale deed. There cannot be an inference that the time stipulated for execution of sale deed must be taken as time stipulated for deposit of money. The decree merely casts a duty on defendant to execute a sale within that period and even if it may be imperfect drafting of decree, the decree holder cannot be bound to do what he was not specifically directed to do. In this case, I must also notice that the decree for specific performance itself was a subject of challenge in appeal and there had been a stay granted in Appellate Court subsequently which was vacated. The appeal filed before the Appellate Court with a prayer for stay and which was vacated only subsequently would itself be a justification for the plaintiff not to have deposited the money. I will not find, therefore, that there was anything particularly legally amiss for Court to deny the plaintiff the benefit of execution.

4. In this case it is not as if the plaintiff has applied for

execution without seeking for permission by the Court to make the deposit. He has indeed filed an application on 09.05.2009 and the Court has also allowed the permission to deposit. That itself must be taken to be the time when the Court was stipulating the deposit and if it was done in the manner directed by the Court, there can be no objection taken by the respondent-judgment debtor. The application under Section 28 of the Specific Relief Act filed by the defendant-judgment debtor complaining that the petition was not within time is not legally sustainable and the Court has correct rejected it.

5. I find no cause for intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

May 08, 2015
Pankaj*