

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3320 of 2015
Date of Decision: 19.5.2015.**

Mehar Singh (deceased) through LRs and othersPetitioners

Versus

Nazar SinghRespondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Pankaj Jain, Advocate
for the petitioners.

SABINA, J.

Petitioners have filed this petition under Article 227 of Constitution of India challenging the order dated 7.4.2015 (Annexure P-5) whereby application moved by the petitioners for framing of issues, was dismissed.

Learned counsel for the petitioners has submitted that the petitioners had always been ready and willing to execute the sale deed in favour of the respondent. In fact, it was the respondent himself who was not willing to get the sale deed executed in his favour and had delayed the matter for more than 17 years. Petitioners had moved an application for rescinding the contract/agreement dated 4.9.1998 in view of the conduct of the respondent.

In the present case, respondent had filed suit for specific performance of agreement to sell dated 4.9.1998. The said

suit was decided by the Trial Court vide judgment/decreed dated 5.1.2002. So far as the suit for specific performance of the agreement to sell is concerned, the same was decreed by the Trial Court but it was held that the respondent could not claim relief of possession from the tenants as the respondent was aware of the fact that the property in question was in possession of the tenants but had failed to implead them as party. Appeal filed by the respondent against the part of the decree whereby relief of possession was declined to him, was dismissed by the Appellate Court vide judgment/decreed dated 23.1.2003. Thereafter, respondent sought execution of the decree by filing execution petition on 12.9.2005. During the pendency of the execution proceedings, petitioners moved the application for framing of issues. The said application was dismissed by the Executing Court vide the impugned order dated 7.4.2015. Since the respondent-decree holder had filed the execution petition within the period of limitation, the learned Executing Court rightly held that no issue qua maintainability of the execution petition was liable to be framed. Moreover, in execution proceedings, the agreement to sell could not be cancelled on the ground that the price of the property in question had risen during the intervening period.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

May 19, 2015
Gurpreet