

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

CR No.3749 of 2015 (O&M)
Date of decision: 20.7.2015

Pritam Singh (deceased) through LRs and others

..... Petitioners

Versus

Rakesh Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Arvind Rajotia, Advocate, for the petitioners.

Mr. Dinesh Kumar, Advocate, for

Mr. Manish Kumar Singla, Advocate, for respondents No.1.

RAJESH BINDAL, J

The defendants have filed the present petition impugning the order dated 16.5.2015 (Annexure P-4) passed by the learned court below, whereby the application filed by them for dismissal of the suit was dismissed.

The suit was filed by the respondents/plaintiffs for specific performance of the agreement to sell dated 29.5.2013. It has been alleged that the sale deed was not got registered by the petitioners. The suit was filed on 15.4.2011. During the pendency of the suit, Pritam Singh-vendor has expired. His LRs have been brought on record.

The contention of learned counsel for the petitioners is that the LRs of deceased-Pritam Singh/vendor are ready and willing to get the sale deed registered in favour of the respondents/plaintiffs, in case the balance sale consideration is paid, for which the respondents/plaintiffs were not ready, hence, the suit was required to be dismissed. The effort of the respondents is only to gain time.

Learned counsel for the petitioners further submitted that the petitioners are still ready and willing to get the sale deed registered in case the entire balance consideration is paid by the respondents on or before

1.9.2015. Learned counsel for the petitioners further submitted that earlier the land agreed to be sold was 24 bighas 8 biswas, however, after partition, which took place after the agreement to sell was signed, the actual land coming to in their share is 24 bighas and 3 biswas. Hence, they will execute the sale deed qua the aforesaid land. The amount of sale consideration will be reduced proportionately.

Learned counsel for respondent No.1 submitted that the respondents will deposit the balance sale consideration of ₹ 1,19,00,000/- approximately in the court below on or before 1.9.2015, after adjusting the proportionate value of the lesser area of land to be transferred in the name of the plaintiffs. He further submitted that the petitioners be bound down to get the sale deed registered immediately thereafter. On their failure, the learned court below be directed to get the sale deed registered in favour of the respondents.

Learned counsel for the petitioners submitted that in case, part sale consideration is deposited prior to 1.9.2015, advance notice be given to the petitioners/defendants, so as to enable them to withdraw the amount.

Both the parties are agreed on the issue that in case the respondents failed to deposit the balance sale consideration in the court on or before 1.9.2015, the suit should be dismissed and the earnest money forfeited. In case, the petitioners/defendants failed to get the sale deed registered after deposit of the amount by the respondents, the learned court below may be directed to get the sale deed executed.

Petitioner No.3-Harvidner Singh legal representative of deceased-Pritam Singh and Rakesh Singh Kumar-respondent No.1 are present in person in Court. Their statements have been recorded separately.

After hearing learned counsel for the parties, the petition is disposed of while modifying the impugned order with the following directions:-

1. The respondents/plaintiffs shall deposit the balance sale consideration of ₹ 1,19,00,000/-, after adjusting the value of 5 biswas of land, which has been found to be less in the ownership of deceased-Pritam Singh after partition proceedings in the court below on or before 1.9.2015. In case, any amount is

deposited before 1.9.2015, notice be given to the petitioners, so as to enable them to withdraw the same.

2. On deposit of the aforesaid amount, the petitioners, who are the LR's of deceased-Pritam Singh (vendor) shall get the sale deed registered in favour of the respondents/plaintiffs on 7.9.2015.
3. In case of failure of the respondents/plaintiffs to deposit the balance sale consideration in court on or before 1.9.2015, agreement to sell shall stand cancelled and the earnest money already paid, forfeited.
4. On failure the petitioners to get the sale deed registered on 7.9.2015, the learned court below shall get the sale deed registered in favour of the respondents/plaintiffs by appointing a Local Commissioner.
5. The respondents/plaintiffs shall purchase required stamp papers to get the sale deed prepared before 7.9.2015.
6. Copy of the draft sale deed may be handed over to the petitioners before 7.9.2015. Petitioner No.3 has supplied copy of his PAN card in Court to the respondents.

The case is stated to be pending in the court below on 3.8.2015. The date of hearing in the case shall be preponed to 1.8.2015 and same shall be taken up in Lok Adalat for disposal in terms of the settlement arrived at between the parties, as noticed above.

The petition stands disposed of.

(RAJESH BINDAL)
JUDGE

20.7.2015

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