

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

C.R. No.4680 of 2015

Date of Decision.27.07.2015

Jarnail Singh (deceased) through LR

.....Petitioner

Versus

Manjit Singh and others

.....Respondents

Present: Mr. Manish Kumar Singla, 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 revision petition is against an order rejecting an objection taken by the judgment debtor that the plaintiff who had secured a decree for specific performance had not deposited the balance of sale consideration as directed by the Court already. It would appear that the suit was originally decreed by the trial Court on 04.08.2006 providing for 30 days time for the defendant to receive the balance of sale consideration and execute the sale deed. The decree provided that if there was any default for the defendant to execute the sale deed, which allowed for 30 days to deposit the amount, he would secure a sale deed through Court in accordance with law.

2. It also bears out that the petitioner deposited the amount on 11.09.2006 before the trial Court but withdrew the amount when an appeal had been filed by the defendant and the case was pending. The case was disposed of by the Appellate Court on 24.07.2012 and the

decree-holder filed an application for seeking for lodgment of the amount in the treasury on 22.08.2012. The Court also directed for the deposit and he deposited the amount on 24.08.2012. The contention is that he did not deposit the money on 22.08.2012 or on 23.08.2014 and the deposit made on 24.08.2012 was, therefore, belated. The Court rejected the objection and hence, the revision petition.

3. The counsel would refer to me a judgment in *P.R. Yelumalai Vs. N.M. Ravi 2015(2) RCR (Civil) 585* to contend that even a delay of one day in making the deposit would entail forfeiture of the right to decree-holder. I have seen through the judgment but the judgment does not make out any such law in the manner propounded by the learned counsel. On the other hand, the Court was holding that the Court that grants a decree would have discretion to extend the time and on a matter of fact in that case, the Executing Court rejected the execution petition on the ground of delay. When the decree-holder sought for a similar prayer for extension of time before the Court on the trial side, the Court dismissed it and the Appellate Court had also dismissed it. The Supreme Court Court found that there was no compelling reason to modify the decision of the Courts below. The law made, however, is that the trial Court will have a discretion to extend the time. Section 28 of the Specific Relief Act which deals with rescission of decree in suit of specific performance itself makes possible for the Court to extend the time. The counsel's argument is that such an application for extension must be filed and if it is not filed, the Court will reject it. There is no such compulsion that there should be an application filed. If a lodgment is filed for deposit by Court to allow the

amount to be deposited and if he has deposited it, I will not find that there any serious lapse on his part. If the amount has been deposited and the Court has considered that there is no contumacious delay and it found that there was no justification for rescission of decree and upheld the contentions taken by the judgment debtor, I would find nothing illegal about the order for making an intervention in the revision petition.

4. The revision petition is dismissed.

(K. KANNAN)
JUDGE

July 27, 2015
Pankaj*