

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

**CR No. 6826 of 2013 (O&M)
Date of decision: 16.11.2015**

Jagmeet Singh

... Petitioner

versus

Varinder Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jai Bhagwan, Advocate for the petitioner.

Mr. Navjot Singh, Advocate for the respondents.

K.Kannan, J.

In a suit for specific performance of agreement for Rs. 1.50 crores, the plaintiff had paid as advance Rs. 30,00,000/- and brought a suit for specific performance. The trial Court directed the deposit of balance of consideration which it was competent to do so under Section 16 but the plaintiff failed to comply with the direction, it consequently dismissed the suit. Against the dismissal of the suit, the defendant had come on revision. The revision is incompetent, but, I will not fetter my jurisdiction exercising my power under Section 227, for, the order is illegal. The failure to comply with the direction might involve in other consequences but cannot operate to result in dismissal of the suit itself. The defendant will be competent to seek for a similar result after putting issue of plaintiff's readiness and willingness and the conduct of the plaintiff in not complying with the directions for exercise will be taken after a due consideration of all the pleas of the respective parties and it could not have been accelerated by summary dismissal, the way it was done. The impugned order is set aside and the Court shall proceed with the trial of the case and deliver the judgment in accordance with law.

The contention already raised by the defendant that he was willing to sell the property ought to be taken as merely a concession and will not fetter the defendant from contending that the plaintiff is not entitled to any relief in the manner pleaded. The trial Court will decide such a contention in the light of the evidence let in by the parties.

The revision petition is disposed of.

(K.KANNAN)
JUDGE

16.11.2015

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