

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

CR No.8634 of 2014

Date of decision: January 06, 2015.

Chhaju Ram etc.

... **Petitioners**

v.

Ramji Lal Advocate

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Kartar Singh Malik-1, Advocate, for the petitioners.

Dr. Bharat Bhushan Parsoon, J. (Oral):

The respondent, decree-holder, in terms of decree dated 19.2.2013, had been called upon to deposit the balance sale consideration of Rs.1,20,000/- within three months of passing of the decree. Allegedly, due to serious ailment, the respondent-decree holder could not deposit the said amount and sought extension in time. After hearing the other party as well, extension of time in depositing the remaining sale consideration upto 11.11.2013 was granted by the lower court vide impugned order dated 11.10.2013 (Annexure P-4). Dissatisfied with the same, the defendants, petitioners herein, filed an appeal on 29.10.2013 which was dismissed as not maintainable on 9.1.2014. This petition now has been preferred challenging the impugned orders claiming that the court could not have extended the stipulated period for depositing the balance sale consideration of Rs.1,20,000/- particularly when the time for deposit of the stated amount had been fixed in the decree itself. Support has been sought from Bhupinder Kaur v. Angej Singh, 2009(4) RCR (Civil) 248 (SC).

Claim of the Counsel for the petitioners that the court had no powers, much less discretion, to extend the time, is not a correct view. Rather, in the judgment cited by Counsel for the petitioners, the Hon'ble Supreme Court has clearly held that the court has powers to extend the time but such power is to be exercised when the vendee satisfies the court about his inability with reasonable cause to tender or deposit the balance sale consideration within the stipulated time fixed in the decree. It thus implies that rescission of contract to sell in terms of Section 28 of the Specific Relief Act, 1963 does not automatically apply on non-deposit of the balance amount within the stipulated time, as per the decree. Even in the cited judgment, findings of the courts below had been affirmed because there was no such cause for extension of time and finding of non-existence of just and equitable cause, the appeal in the Hon'ble Supreme Court had been dismissed.

In the present case, when the executing court has satisfied itself that due to abdominal serious ailment, the decree holder could not deposit the balance sale consideration, extension in time was granted. This is just and equitable order and had been passed after hearing objections of the opposite party and consideration of relevant attending circumstances.

It may be noticed that even earlier, the petitioners, judgment debtors, had approached this Court vide CR No.853 of 2014 and vide order dated 26.8.2014, with liberty to take all the pleas before the court below, they had withdrawn the petition.

In view of well written impugned order, after consideration of all the attending facts and circumstances, by extending the time for deposit of the balance sale consideration, when majority of the sale consideration had already been deposited by the decree holder, no illegality or perversity

has been committed by the courts below.

There is no merit in the instant revision petition.

Dismissed.

January 06, 2015.
kadyan

[Dr. Bharat Bhushan Parsoon]
Judge