

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

COCP No.1285 of 2016

Date of decision: September 08, 2016

Harbans Singh

...Petitioner

Versus

Tarsem Singh Viridi

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.K. Aurora, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Petitioner has approached this Court alleging contempt of the undertaking given to the Court, as has been recorded in the order dated 10.01.2011 passed by the Additional Civil Judge (Senior Division), Jalandhar (Annexure P-1). The operative part of the said order relevant for the purpose of disposal of present contempt petition reads as under:-

“In view of the above statements of parties recorded today in the Court, in the presence of their counsel, the present petition stands allowed. However, petitioner has agreed to transfer the demised premises, fully detailed in the head note of the petition and comprised in property No.B-I/1282/1A in favour of respondent for sale consideration of Rs.57 lacs, out of which, amount of Rs.20 lacs has been paid today. The respondent will make the payment of Rs.20 lacs to the petitioner on 31.03.2011 and the remaining amount of Rs.17 lacs on

16.05.2011 and the petitioner will execute the sale deed in favour of respondent on or before 16.05.2011. If the respondent fails to make the payment of the remaining sale consideration, then the petitioner will have the liberty to recover the possession of the demised premises as per the order of ejectment passed today. If the petitioner fails to execute the registered sale deed of the demised premises, as per the compromise and statement recorded today, then, respondent will have the liberty to get the sale deed executed in his favour through the process of Court of law. The present ejectment order will become redundant on the execution of the registered sale deed in favour of respondent by the petitioner. Both the parties shall remain bound by their statements. The present rent petition stands allowed as per the above mentioned terms and conditions of the compromise and statements recorded between the parties. Both the parties are left to bear their own costs. File be consigned to the record room.”

When the respondent failed to execute the sale deed as per the order dated 10.01.2011, the petitioner approached the Court again as per the said order and filed an application for direction to the respondent to execute the regular sale deed, which was disposed of vide order dated 13.12.2012. In the said order, it was again referred to as follows:-

“In case, Tarsem Singh fails to get execute the sale deed, then, applicant-Harbans Singh has the liberty to approach to this Court for the execution of sale deed in his favour, in terms of the

order dated 10.01.2011. Accordingly, application stands disposed of.”

It is, thereafter, again, when the respondent did not execute the sale deed, another application was filed under Section 151 of Code of Civil Procedure, for the same purpose i.e. for execution of the regular sale deed as per the order dated 10.01.2011, which was passed by the Court on 14.03.2016 (Annexure P-10), wherein, the application preferred by the petitioner has been dis-allowed. Instead of challenging the said order and availing the remedy in accordance with law, the petitioner has approached this Court by filing the present contempt petition.

A perusal of the orders, which have been reproduced above, would show that it was not an unconditional undertaking which was given. The mandate of the order, left it open to the petitioner to avail of his remedy which was mentioned therein i.e. to approach the Court to get the sale deed executed in his favour as per the said order. He did avail of that remedy leading to the passing of the order dated 13.12.2012. The proper remedy available to the petitioner should have been invoked by him. The contempt petition, as it was the conditional order on the basis of the undertaking which has been given, as asserted by the petitioner, would not be made out.

The petition, therefore, stands dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

September 08, 2016

ps-I

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.