

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

C.R. No.1519 of 2016

Date of Decision.04.03.2016

Mahinder Kaur @ Mahantani Kalyani

.....Petitioner

Vs.

Chander Parkash

.....Respondent

Present: Mr. Preetwinder Singh Dhaliwal, 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. There is simply no merit at all in the petition filed by judgment debtor who suffered a decree against him in counter claim filed by the defendant. Earlier the plaintiff had filed the suit for injunction on the basis of an oral agreement of sale when the defendant had contended that he had purchased the property in the year 2001 and that he is entitled to the proeprerty itself. The suit and the counter claim appear to have dismissed in the court of 1st Instance and in appeal filed, the Appellate Court confirmed the decree of dismissal of the plaintiff's claim and allowed the defendant's counter claim. That the decision of the Appellate Court appears to have become final and there has been no further appeal.

2. However, the plaintiff has filed a fresh suit for specific performance and the case is pending. The defendant has applied for further process in execution of the decree obtained in the counter claim

at the Appellate Court. The Executing Court cannot travel beyond the decree and if there was no further appeal against the Appellate Court judgment granting stay, Executing Court is bound to execute it and ensure that the property is delivered possession. The issue of whether the plaintiff will have a superior right by virtue of oral agreement, will be possible if the decree for specific performance is granted and the plaintiff is able to secure a right of enforcement against his vendor and the defendant. Till such time as the plaintiff has his remedies worked out in the suit which he has filed, he is bound to deliver possession to the defendant. The warrant for delivery of possession would not require to be modified.

3. The revision petition is without merit and it is dismissed.

(K. KANNAN)
JUDGE

March 04, 2016
Pankaj*