IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.3421 of 2015
Decided on: 29.11.2016

Inder Singh ....Petitioner

Versus

Ravinderpal Singh ....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Munish Gupta, Advocate for the petitioner.

Mr. Deepak Verma, Advocate for the respondent.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 04.04.2015 (Annexure P8) passed by the Additional Civil Judge (Sr. Division) Garhshankar whereby objections filed by the petitioner/judgment-debtor have been dismissed.

Counsel for the petitioner has submitted that suit filed by the respondent/plaintiff for specific performance of agreement to sell dated 21.04.1997 in respect of land measuring 22 kanals 07 marlas, detailed in headnote of the plaint was decided on the basis of compromise Ex.PX between the parties and statements of the parties recorded before the Lok Adalat on 08.12.2001. It is further submitted that as per the compromise, the petitioner was obligated to pay an amount of Rs.5,05,000/- to the respondent on or before 31.03.2002 failing which the petitioner was required to execute sale deed in respect of land measuring 16 kanals out of 30 kanals 16 marlas detailed in the compromise (Ex.PX). It is argued with vehemence that as the petitioner has already paid an amount of Rs.5,05,000/- to the respondent/decree-holder on 31.03.2002 in compliance with the terms and conditions agreed between the parties, the impugned order should be set-aside and the matter is remitted to the Executing Court for adjudication afresh by permitting the petitioner to prove payment in the presence of Hazara Singh son of Sunder Singh and Binder Teji son of Niranjan Teji of village Pandhori. It is further submitted that the petitioner is ready to settle the dispute by way of compromise if the parties are relegated to the Mediation and Conciliation Centre of the Court. Another submission made by counsel is that the petitioner has alienated the land after payment to the respondent.

Counsel for the respondent, on the contrary, has supported the impugned order with the submission that any such plea with regard to payment is not tenable in view of the express provisions of Order 21 Rule 1 of the Code of the Civil Procedure (in short 'CPC') that provides for modes of paying money under decree. It is further submitted that as the petitioner failed to pay the agreed amount, he cannot escape his liability to execute the sale deed in respect of land measuring 16 kanals in compliance with the terms and conditions of the compromise. In addition, it is submitted that even if the petitioner has alienated the land in question that can neither cause prejudice to rights of the respondent/decree-holder nor can enure to benefit of the petitioner or purchasers from him. The last submission made by counsel is that no useful purpose would be served by referring the matter to the Mediation Centre as the respondent/decree-holder is not interested for any settlement as the petitioner failed to honour his word, as per compromise.

I have heard counsel for the parties and perused the paperbook particularly the order impugned.

The solitary plea raised by the petitioner is that he had paid Rs.5,05,000/- to the decree-holder on 31.03.2002 in the presence of aforesaid persons belonging to village Pandhori but the decree-holder promised to give a receipt but later backed out from his promise. In addition, it has been contended that he has sold land to Manjit Singh, Jasvir Kaur and Ranjit Singh after making payment to the decree-holder.

Order 21 Rule 1 CPC provides for modes of paying money under decree. A relevant extract therefrom, reads as follows:-

> ***"1. Modes of paying money under decree*** *— (1) All money, payable under a decree shall be paid as follows, namely :-*
>
> ***(a)*** *by deposit into the Court whose duty it is to execute the decree, or sent to that Court by postal money order or through a bank; or*
>
> ***(b)*** *out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing; or*
>
> ***(c)*** *otherwise, as the Court which made the decree, directs."*

A bare reading of the aforesaid extract leaves no manner of doubt that all money payable under a decree shall be paid by resorting to any of the modes provided in Clause (a) to (c) of Rule 1 of Order 21 CPC. Admittedly, in the case at hand, the petitioner has not taken recourse to any of the modes prescribed and recognized in law. As such, plea of the petitioner that he paid money to the decree-holder on 31.03.2002 without obtaining a receipt in token thereof cannot be permitted to be raised nor the petitioner can be allowed to reopen the matter by seeking framing of issues and adducing of evidence at the costs of inviting another bout of litigation for the successful decree-holder. The mere fact that the decree-holder filed an application for execution at the fag end of prescribed limitation is not sufficient to accept claim of the petitioner that he has already discharged his liability under the compromise by payment of Rs.5,05,000/- on 31.03.2002. This apart, it is difficult to accept to reason that despite the decree creating an obligation upon the petitioner to execute the sale deed in respect of land measuring 16 kanals on his failure to pay an amount of Rs.5,05,000/- on or before 31.03.2002, the petitioner would have paid the said amount without ensuring that a receipt/writing is executed by the decree-holder acknowledging the payment. This fact alone is sufficient to negate plea of the petitioner that he has already discharged his liability *qua* payment of Rs.5,05,000/- on 31.03.2002.

No other point has been raised.

For the foregoing reasons, finding no merit, the petition fails and is accordingly dismissed. No order as to costs.

29.11.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No