

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.4773 of 2016
Date of decision: August 16, 2016

Sulekh Chand ...Petitioner

Versus

Ram Chander & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. C.B. Goel, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 12.07.2016, passed by the trial court, whereby application filed by the petitioner praying for dismissal of execution petition filed by respondent No.1, by accepting objection petition, has been rejected.

Learned counsel for the petitioner has assailed the order. He has submitted that approach of the trial court is erroneous and against law. According to him, the decree holder failed to deposit the balance sale consideration within two months before the executing court and thus, the court below fell into an error of law while passing the impugned order. He has relied upon judgment rendered in ***Chanda (dead) through Lrs vs. Rattni & Anr., 2007 (2) RCR (Civil) 534.***

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears that the respondent No.1/plaintiff filed a suit for

possession by way of specific performance regarding House No.748, Sector-9, Urban Estate, Ambala City against the petitioner/defendant as well as Haryana Urban Development Authority. The suit was partly decreed by the trial court and a decree for the amount of Rs.2,75,000/- alongwith costs and interest was passed in favour of respondent No.1/plaintiff on 21.09.2010 and the suit qua HUDA was dismissed. Aggrieved, plaintiff/decreed holder filed appeal, which was allowed on 16.11.2011 decreeing his suit. Petitioner/judgment debtor filed a Regular Second Appeal No.1512 of 2012, which was also dismissed by this court. Petitioner then filed SLP No.27008 of 2013 before the Hon'ble Supreme Court, which was also dismissed on 9.9.2013. As per judgment and decree of the first appellate court, the decree holder/respondent No.1 had to deposit the remaining sale consideration and thereafter the costs had to be deducted and sale deed was to be executed within two months. The respondent No.1/decreed holder filed execution application in the trial court on 16.01.2012. The court ordered to deposit the amount of sale consideration and adjourned the case to 18.02.2012. It was directed that judgment debtor would execute the sale deed within two months of deposit of sale consideration. No specific period was fixed. The decree holder/respondent deposited the amount without much delay. Thus, question of non-compliance of the order does not arise. Instant application has been filed by the petitioner just to delay the execution proceedings. He has already lost the case upto the apex court. The judgment in *Chanda's case (supra)* cannot help the case of the petitioner as in that case, balance amount was to be deposited within two months.

So, I find no infirmity with the order. Revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

August 16, 2016
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No