

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

**Civil Revision No.5965 of 2016 (O&M)
Date of Decision: 05.10.2016**

Gurwinder Singh

.....Petitioner

Vs

Joginder Singh and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Abhinav Oberoi, Advocate
for the petitioner.

Mr. Parvinder Singh Ahluwalia, Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. In this revision petition, petitioner has assailed order 20.08.2016 passed by the trial Court, directing him to place on record demand draft of balance sale consideration on or before 09.09.2016, failing which the trial Court will pass appropriate order regarding readiness and willingness of the plaintiff.

[2]. Brief facts as gathered from the record are that plaintiff filed a suit for possession by way of specific performance of agreement to sell dated 08.03.2011 in respect of suit land. Permanent injunction was also sought seeking to restrain the defendants from alienating the suit property.

[3]. An application was filed by the defendants for issuance of direction to the plaintiff to get the sale deed executed and registered in his favour on making payment of balance sale consideration to the defendants. It was asserted by the defendants that they were ready to receive the balance sale consideration from the plaintiff and were ready to execute the sale deed on receipt of balance sale consideration.

[4]. Plaintiff filed reply to the aforesaid application stating that plaintiff is also ready and willing to get the sale deed executed and registered as per agreement to sell dated 08.03.2011. The defendants were to give possession of front portion of land on Ambala Road, measuring 155 feet. Thereafter defendant were required to get the land demarcated by showing existence of 155 feet in front of Ambala Road. The defendants were liable to provide clear possession of 155 feet frontage on Ambala Road. Term and condition No.7 of the agreement to sell was pressed into service.

[5]. Trial Court passed an order order 20.08.2016, on the premise that the main controversy between the parties was in respect of not providing property as per terms and conditions of the agreement to sell. Defendants came forward with their readiness to the effect that they were ready to provide property

as per terms and conditions of the agreement to sell, but the plaintiff was not ready with the balance sale consideration and as such plaintiff was delaying the matter on one pretext or the other.

[6]. During the course of arguments before the trial Court, though the plaintiff showed his readiness and willingness and it was asserted that in fact defendants were not ready to accept the factum of readiness and willingness of the plaintiff. Keeping in view the stand taken by both the sides, plaintiff was directed to place on record demand draft of balance sale consideration on or before 09.09.2016, failing which the Court will pass appropriate order regarding readiness and willingness of the plaintiff. The application was accordingly disposed of.

[7]. Feeling aggrieved against the aforesaid direction of placing on record the demand draft of balance sale consideration on or before 09.09.2016 and in the event of failure on the part of the plaintiff, necessary orders with regard to his readiness and willingness would be passed by the trial Court, the plaintiff has filed this revision petition.

[8]. In order to appreciate the controversy between the parties, this Court specifically put a question to the plaintiff as to whether he is ready to honour the agreement to sell in case

clear possession of 155 feet in front of Ambala Road is given to him. The reply of the plaintiff was in affirmative. Accordingly order was passed on 14.09.2016 in the following manner:-

“Learned counsel for the petitioner contends that petitioner is ready and willing to honour the agreement to sell, provided terms and conditions of the same are duly complied with by the defendants.

Learned counsel for the respondents states that the defendants shall execute the sale deed in favour of the plaintiff provided whole of the remaining consideration is paid to them by way of demand draft.

In view of stand taken by learned counsel for both the parties before this Court, let both the parties appear before the Sub Registrar, Rajpura on 28.9.2016 for execution of required sale deed.

List again on 29.9.2016.

To be shown in urgent list.”

[9]. Thereafter finding 28.09.2016 to be holiday in Punjab, the aforesaid order was modified and the parties were directed to appear before the Sub-Registrar, Rajpura on 03.10.2016. The stand of the respondents was consistent that they will provide possession of 155 feet front on Ambala Road and sale deed shall be executed on that premise. The following order was passed on 27.09.2016:-

“CM No.19678-CII of 2016

For the reasons mentioned in the application, the

same is allowed.

Accompanying documents are taken on record.

CM No.19680-CII of 2016

It has been informed that 28.09.2016 has been declared holiday in Punjab. Order dated 14.09.2016 is partially modified to that extent. Now both the parties shall appear before Sub Registrar, Rajpura on 03.10.2016.

Learned counsel for the respondents undertakes that he would deliver possession of 155 sq. feet front of Ambala road and the sale deed shall be executed in pursuance thereof.

Application stands disposed of. ”

[10]. Today, it has been informed by the learned counsel for the respondent that the plaintiff did not come present in the office of Sub-Registrar, Rajpura on 03.10.2016 for execution and registration of sale deed.

[11]. On a pointed query, learned counsel for the plaintiff/petitioner admitted that plaintiff/petitioner did not attend the office because clear possession of 155 feet front on Ambala Road was not available with the defendants, nor the defendants gave the possession thereof to the petitioner before intended execution of sale deed. Since possession was not delivered, therefore, plaintiff did not attend the office of Sub-Registrar.

[12]. As on date, the terms and conditions of the agreement to sell have not been honoured by the plaintiff/petitioner. Firstly

the direction issued by the trial Court for bringing a demand draft of balance sale consideration was not adhered to. Secondly, the direction issued by this Court on 14.09.2016 was not complied with by the plaintiff on the pretext that defendants had no clear possessory title over the property in front of Ambala Road.

[13]. Having heard the learned counsel for the parties, I found that the petitioner has violated the order of the trial Court as well as order passed by this Court on 14.09.2016. He did not even care to attend the office of Sub-Registrar. A lame excuse has been made that as per discussion, defendants did not offer clear possession of 155 feet front on Ambala Road before execution of sale deed. The conduct of the petitioner is found to be not above board. He has misused the process of the Court by making statement before the Court on 14.09.2016 that he will honour the agreement, as per terms and conditions of the agreement to sell. Defendants proceeded to honour the agreement by offering clear 155 feet in front of Ambala Road. Plaintiff did not even attend the office of Sub-Registrar, Ropar on 03.10.2016.

[14]. The conduct of the petitioner is liable to be deprecated as he has misused the process of the Court on three dates, but

with no real intention to honour the agreement to sell. For wasting the valuable time of the Court, petitioner has to be burdened with some cost. Consequently, this revision petition is dismissed with cost of Rs.15,000/- which is to be deposited with the Sub-Divisional Legal Services Authority, Rajpura. The payment of cost shall be the condition precedent for further proceedings before the trial Court.

[15]. Ordered accordingly.

October 05, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No