

**C.M.No.8166-CII-2017 and
C.M.No.9221-CII-2016 in
RA-CR-No.90-CII of 2016 in
CR No.6712 of 2014**

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

**C.M.No.8166-CII-2017 and
C.M.No.9221-CII-2016 in
RA-CR-No.90-CII of 2016 in
CR No.6712 of 2014
Date of decision:17.04.2017**

M/s Mahamaya Exports Pvt. Ltd. ... Petitioner

Vs.

Prem Chand and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashish Chopra, Advocate
for the applicant/petitioner.

Mr. M.L.Sarin, Senior Advocate with
Ms. Hemani Sarin, Advocate
for the non-applicant/respondents.

AMIT RAWAL J. (Oral)

Mr. Ashish Chopra, learned counsel appearing on behalf of the applicant/petitioner/plaintiff submits that in pursuance to the previous order dated 27.03.2017, sale deed in respect of the suit property has been executed, much less, compensation to the tune of ₹50.00 lacs has been paid to the vendor in addition to the sale consideration. He further submits that he has filed an application bearing No.8166-CII-2017 dated 16.04.2017 through e-mail seeking following three-fold prayer:-

- i) Refund of the Court fees paid before the trial Court.
- ii) Appropriate direction to the vendor seeking redemption

of the property stated to be mortgaged.

iii) For refund of compensation of ₹50.00 lacs.

He further submits that an advance copy of the application has already been given to the office of Mr. Sarin, which is not disputed.

Notice of the application to the non-applicant/respondents.

Ms. Hemani Sarin, Advocate accepts notice on behalf of the non-applicant/respondents.

Mr. M.L.Sarin, learned Senior Counsel assisted by Ms. Hemani Sarin, Advocate appearing on behalf of the non-applicant/respondents has opposed the prayer with regard to refund of compensation of Rs.50.00 lacs, much less redemption of the mortgaged property on the premise that the applicant/petitioner being owner of the property is well within his rights to seek redemption of the same but vis-a-vis refund of Court fees, he submits that it should be on share basis.

I have heard learned counsel for the parties, appraised the order dated 31.03.2016 and of the view that once the previous order dated 27.03.2017 has been complied with, in essence, sale deed dated 05.04.2016, Annexure A-6, (annexed with the application) has been executed between the parties, much less, a sum of ₹50 lacs has been paid, I do not deem it appropriate to accept the request of Mr. Chopra qua refund of compensation keeping in view the conduct of the petitioner reflected from the orders passed from time to time and numerous applications have been filed for

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extension of time which has been granted. Even the application for review of the order was also apparently hit by provisions of Order 47 Rule 9 of Code of Civil Procedure.

As regards the mortgage of the property, the applicant/petitioner/plaintiff being owner of the property would be at liberty to seek redemption of the same in an appropriate forum, much less in accordance with law.

Vis-a-vis third prayer qua refund of Court fees, since the sale deed has been executed, though belatedly in a suit for specific performance instituted by the vendor, yet I deem it appropriate to order refund the Court fees of ₹10,33,175/- which is stated to have been paid on the sale consideration of the agreement in question in accordance with law subject to all the terms and conditions which trial Court deems it appropriate. The vendor is not entitled to share the refund of the Court fees to the extent of 50% in view of the fact that he has been compensated in terms of money to the tune of ₹50 lacs.

In view of the aforementioned, the applications for modification and appropriate directions stand disposed of. Resultantly, the suit aforementioned stated to be pending adjudication before the trial Court is also disposed of.

April 17, 2017
savita
Whether Speaking/Reasoned
Whether Reportable

(AMIT RAWAL)
JUDGE
Yes/No
Yes/No