

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

C.R. No.7061 of 2015(O&M)
Date of Decision.11.01.2016

Ram Chander through his LRs

.....Petitioner

Vs.

Ramroop

.....Respondent

Present: Mr. Abhishek Yadav, 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. The revision petition is against the order dismissing the application filed under Section 28 of the Specific Relief Act and for rescission of the decree brought at the instance of the judgment debtor on the ground that the decree holder had not complied with the terms of the decree in the manner of deposit. In the suit for specific performance, the decree was passed on 26.05.2009 admitting to the receipt of consideration of ₹1,05,000/- and balance of amount of ₹1,000/- which had not been paid at the time of agreement had been directed to be deposited within a period of two months from the date of decree. Admittedly, the amount had not been deposited and the defendant had preferred an appeal within the time challenging decree for specific performance. The appeal was dismissed and the matter was again brought before this Court in regular second appeal and it was also dismissed on 20.07.2012. Thereafter in the same month, execution

petition had been filed but along with the execution petition, the amount of ₹1,000/- had not been deposited. Later when an objection was taken, the decree holder made good the lapse by depositing ₹1,000/- in the year 2014. Against the order directing the deposit after hearing the objections from the judgment debtor, the latter had preferred a revision petition to this Court but the revision petitioner withdrew the revision petition with liberty to approach the trial Court by an application under Section 28 of the Specific Relief Act for rescission of the decree. The Court has now dismissed the application and the revision petition is against this order.

2. The decree that has has been lawfully passed will not be easily scuttled unless the conduct of the decree holder is such as to make possible an inference that he had been seriously in lapse of his obligation to perform his part of contract and there had been no readiness expressed in the manner that the decree required. It must also show such a conduct as to render a discretion unavailable to be extended for the decree holder to deposit the amount and the period prescribed, such as when large portion of consideration still remained unpaid and the judgment debtor who had a right to receive the balance of consideration had been delayed in receiving the benefit of the obligation of the decree holder in his favour. In this case, the amount that remained undeposited was an infinitesimally a small proportion to the whole consideration and if there had been a delay caused on account of pendency of appeal brought at the instance of the defendant himself and an execution petition had been filed by the decree holder on 03.04.2012 itself even before the disposal of the second appeal but the Court had kept the case

pending and the deposit was made later, I will not find that there is any serious prejudice caused or there was any defect in the exercise of discretion which was extended by the Court below.

3. I will find that there is nothing seriously amiss for intervention in the revision petition. The revision petition is dismissed.

(K. KANNAN)
JUDGE

January 11, 2016
Pankaj*