

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 7284 of 2014
Date of decision : May 2, 2016

Balbir Singh

..... Petitioner

Versus

Bhajan Kaur alias Bhajno and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vivek K Thakur, Advocate
for the petitioner.

Mr. Jagjit Singh, Advocate
for respondent Nos. 1 and 2.

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?

Amit Rawal, J (oral).

The petitioner-decree holder is aggrieved of the impugned order whereby application seeking extension of time to deposit the amount of ₹10,000/- has been declined.

Mr. Vivek K. Thakur, learned counsel appearing on behalf of the petitioner submits that in a suit for specific performance, an agreement to sell dated 19.8.1993 was entered into which was decreed by the trial court. The earnest money of ₹1,90,000/- against the total sale consideration of ₹2 lacs had already been deposited but the possession still remained with the vendor. The aforementioned suit was decreed vide judgment and decree dated 27.5.1998. The aforementioned judgment and decree

was assailed by the respondents-defendants and the same was dismissed on 1.9.2001 and within 14 days, an application dated 14.9.2001 was filed seeking liberty of the court to deposit ₹10,000/- but the same has been declined. There are two decree holders and one of the decree holder is resident of Canada and had given Power of Attorney to Swaran Singh, who unfortunately was indisposed being suffering from ailments and the documentary evidence, in this regard was also placed on record but the trial court has declined the relief.

Mr. Jagjit Singh, learned counsel appearing on behalf of respondent Nos. 1 and 2 submits that there was no interim stay before the lower appellate court qua judgment and decree of the trial court and therefore the period of two months lapsed and earlier the plaintiff failed to deposit the balance amount, therefore the decree has become in-executable as per provisions of Section 28(3) of Specific Relief Act, 1963 and provisions of Section 148 CPC cannot be enforced.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and substance in the submissions of learned counsel for the petitioner keeping in view the facts and circumstances mentioned above. Swaran Singh, one of the decree holder who was unfortunately indisposed as having suffering from ailments and umpteen number of documentary evidence, in this regard was also placed on record. Moreover owing to the pendency of the appeal at the instance of the vendor, the decree could not be executed. The application was

moved within 14 days after dismissal of the appeal on 1.9.2001. This fact has not been noticed by the trial court.

Accordingly, the application filed under Section 148 CPC seeking extension of time to deposit the balance amount of ₹10,000/- only is allowed, thereafter the executing court shall proceed in accordance with law.

The civil revision stands allowed.

(AMIT RAWAL)
JUDGE

May 2, 2016
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