

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

CR No. 318 of 2016

Date of Decision: 02.08.2017

PREM

-PETITIONER

VS

SUNITA DEVI AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Munish Kumar Garg, Advocate,
for the petitioner.

Mr. Ravi Partap, A.A.G., Haryana,
for respondents No.2 and 3.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has challenged the order dated 04.12.2015 passed by District Judge, Jind whereby appeal against order dated 15.10.2013 was allowed to the extent of dropping proceedings under Order 39 Rule 2-A CPC qua respondents No.2 to 4.

Respondent No.1 was held guilty of disobedience to the order of the Court dated 09.11.2009. In the absence of any proof of the property of respondent No.1 for attachment, he was ordered to be detained in civil prison for a period of one month.

Civil Suit No.359/28.10.2009/05.11.2009 was filed by respondent No.1 against the petitioner for permanent injunction.

In the said suit, Prem son of Kalia i.e. the petitioner made a statement that he would not mortgage, sell or destroy the property in dispute. His statement was recorded and the Judge, Lok Adalat-cum-Addl. Civil Judge (Sr. Divn), Narwana dismissed the suit as withdrawn on the basis of separate statement recorded on behalf of the present petitioner (defendant in the said suit). He was held to be bound by his statement and written statement. The suit was ordered to be dismissed as withdrawn. Thereafter, the petitioner on the basis of agreement to sell of even date, executed sale deed No.2073 on 14.07.2010 by flouting the undertaking given before the civil Court.

Evidently, the sale deed has not been assailed by the petitioner till date on the ground of fraud or undue influence done by the vendee Jasbir Singh in any manner. The trial Court vide order dated 15.10.2013 dismissed the application, however, in appeal filed by respondent No.1, the lower Appellate Court while commenting upon nature of undertaking given before the trial Court held the petitioner to be guilty of disobedience of the order dated 09.11.2009 and exonerated respondents No.2 to 4.

In my considered view, the observation made by the lower Appellate Court cannot be faulted with as there was an undertaking given by the petitioner before the Civil Court which

ultimately entailed in withdrawal of the suit. The alleged plea of his being under state of intoxication at the time of execution of agreement to sell and registration of sale deed cannot be accepted particularly in view of the fact that there was no action initiated by him in pursuance thereof in any manner till date.

Accordingly, the present revision petition is dismissed.

02.08.2017
 jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No