

**CR No. 3429 of 2017 (O&M)
and connected cases**

1

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 3429 of 2017 (O&M)
Date of decision: 11.5.2017**

Assotech Realty Private Limited

...Petitioner

Versus

Shri Randhir Singh and another

...Respondents

2)

CR No. 3430 of 2017 (O&M)

Assotech Realty Private Limited

...Petitioner

Versus

Shri Randhir Singh and another

...Respondents

3)

CR No. 3431 of 2017 (O&M)

Assotech Realty Private Limited

...Petitioner

Versus

Shri Randhir Singh and another

...Respondents

4)

CR No. 3432 of 2017 (O&M)

Assotech Realty Private Limited

...Petitioner

Versus

Shri Randhir Singh and another

**CR No. 3429 of 2017 (O&M)
and connected cases**

2

...Respondents

5)

CR No. 3433 of 2017 (O&M)

Assotech Realty Private Limited

...Petitioner

Versus

Shri Randhir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Pankaj Jain, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

These five identical civil revision petitions bearing CR Nos. 3429 to 3433 of 2017, at the hands of plaintiff, filed under Article 227 of the Constitution of India, directed against separately passed five identical orders, are being decided together vide this common order, with the consent of learned counsel for the petitioner, as facts involved in all these five cases are same and parties are also the same. However, for the facility of reference, facts are being culled out from CR No. 3429 of 2017.

Feeling aggrieved against the order dated 3.4.2017 (Annexure P-7) in all these five cases, whereby the learned trial court allowed the application moved by the defendants-respondents for closing the evidence of plaintiff-petitioner, as five identical civil suits, at the hands of petitioner, are pending for the last 12 years and were still at plaintiff's evidence and also in view of order dated 26.5.2009 passed by this Court in CR No. 2870 of 2009 between these very parties, plaintiff-petitioner has approached this Court by

**CR No. 3429 of 2017 (O&M)
and connected cases**

3

way of these five revision petitions, for setting aside the impugned orders.

Heard learned counsel for the petitioner.

It is a matter of record and not in dispute that five identical suits for possession by way of specific performance of the agreement to sell dated 2.2.2005 and in the alternative, recovery of damages and for declaration with consequential relief of permanent injunction filed by the plaintiff-petitioner are pending between the parties for the last about 12 years. All the five suits are still at the stage of plaintiff's evidence. Interim injunction was declined by the learned trial court and thereafter, miscellaneous appeal filed by the plaintiff-petitioner was also dismissed by the learned District Judge.

During the course of proceedings of the suit, plaintiff-petitioner approached this Court by way of CR No. 2870 of 2009, which was disposed of by this Court vide order dated 26.5.2009 (Annexure P-1) and relevant part thereof, available at page 24 of the paper book, reads as under:-

“In view of the aforesaid, without going into the merits of the contentions raised on behalf of both the parties, the instant revision petition is disposed of with direction to defendant-respondent No.2 that in the event of alienation of the suit land or any part thereof during the pendency of the suit, defendant No.2 shall inform the prospective alienee, by recital in the alienation deed, about the pendency of the suit. The observation of Lower Appellate Court about alteration of the suit land in any manner during the pendency of the suit as noticed hereinabove shall of course subsist because the same has not been

**CR No. 3429 of 2017 (O&M)
and connected cases**

4

challenged by the defendants.

The Trial Court is directed to expedite the trial of the suit. Only two more opportunities shall be given to the plaintiff-petitioner for its evidence. The case is said to be fixed before the Trial Court for 15.9.2009. On joint request of learned counsel for the parties, the Trial Court is directed to pre-pone the suit to 20.7.2009 for evidence of the plaintiff-petitioner instead of 15.9.2009. However, three opportunities shall be granted to the defendant-respondents for their evidence. The Trial Court shall decide the suit as expeditiously as possible. The parties are directed to appear in the Trial Court on 20.7.2009.”

A bare perusal of the abovesaid observations would make it crystal clear that this Court made it very clear that only two more opportunities shall be given to the plaintiff-petitioner for its evidence and the learned trial court was also directed to decide the suit as expeditiously as possible. However, in spite of the lapse of time of about eight years, suits filed by the petitioner-plaintiff are at the same stage, i.e. plaintiff's evidence, at which, all these five suits were in the year 2005. Some witnesses have been examined by the plaintiff but authorised representative is yet to be examined by the plaintiff-petitioner as its own witness.

It is not pleaded or argued case on behalf of the petitioner that permission was ever taken for examining plaintiff as its own witness at a later point of time, i.e. after examining some other witnesses. Apart from that, even after availing numerous opportunities after passing of the order

**CR No. 3429 of 2017 (O&M)
and connected cases**

5

dated 26.5.2009 by this Court, plaintiff-petitioner has not concluded its evidence so far, in spite of the fact that inordinate long time of about eight years has already been consumed by the plaintiff. When the matter is examined in this context and particularly in view of order dated 26.5.2009, it can be safely concluded that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

It also deserves to be noticed here that the impugned order has been passed by the learned commercial court. Further, the learned trial court was specifically directed by this Court to decide the suit as expeditiously as possible and the learned trial court was also directed to pre-pone the date of hearing from 15.9.2009 to 20.7.2009. However, neither the learned trial court kept the abovesaid order dated 29.5.2009 passed by this Court in view, nor plaintiff-petitioner took even the bare minimum interest in concluding its evidence, despite having been granted only two more opportunities for its evidence by this Court vide order dated 26.5.2009.

As noticed hereinabove, petitioner-plaintiff has failed to comply with the provisions of law contained in Order 18 Rule 3-A CPC. In fact, very purpose of the speedy disposal of the cases has been defeated in the cases in hand and petitioner is also responsible for it. Since the learned trial court has discussed all the relevant aspects of the matter, before passing the impugned order, no fault can be found with the impugned order and the same deserves to be upheld, for this reason also.

A careful perusal of the impugned order would show that no PW was present either on 6.2.2017 or on 21.2.2017. Similarly, on 7.3.2017, only one PW was present and examined. In this view of the matter, it seems

**CR No. 3429 of 2017 (O&M)
and connected cases**

6

that plaintiff-petitioner is not a bonafide litigant and bent upon to misuse the process of law to the maximum. It also seems that only object of the petitioner is to delay the proceedings. Petitioner has been taking the courts for a ride. Once abovesaid order dated 26.5.2009 was passed by this Court and that too, at the instance of the petitioner itself, it was least expected from the petitioner that it would have concluded its evidence in the year 2009 itself.

In the totality of facts and circumstances of the case, discussed hereinabove, this Court is of the considered opinion that petitioner is playing with the justice delivery system, showing no respect for law. Under these circumstances, all these five revision petitions are nothing but classical example of glaring misuse of process of law. Petitioner has already wasted enough valuable time of the court and it must pay for it, therefore, these revision petitions are liable to be dismissed with costs, which are quantified as ₹15,000/- for each revision petition.

The abovesaid view taken by this Court also finds support from the following more than one judgments of the Hon'ble Supreme Court as well as this Court:-

- 1) Ramrameshwari Devi and others Vs. Nirmala Devi and others, 2011 (8) SCC 249 (SC)
- 2) State of Haryana Vs. Mukesh Kumar and others, 2011 (10) SCC 404 (SC)
- 3) M/s PGF Ltd. And others Vs. Union of India and another, 2015 (13) SCC 50 (SC)
- 4) Messer Holdings Ltd. Vs. Shyam Madanmohan Rula and others, 2016 AIR (SC) 1948 (SC)
- 5) Ishwar Dutt Vs. Smt. Dilbhari, 1979 PLR 35 (P&H)

**CR No. 3429 of 2017 (O&M)
and connected cases**

7

- 6) Hakam Singh Vs. Jodh Singh and others, 1984 AIR (Punjab) 255 (P&H)
- 7) Sulkan Singh Vs. Jaspal Singh, 2003 (3) RCR (civil) 680 (P&H)
- 8) Goel Flour & Oil Mills Vs. Haryana State Electricity Board, Chandigarh, 1997 (1) RCR (civil) 67 (P&H)
- 9) Ram Dass Vs. Ram Lubhaya, 1998 (2) RCR (civil) 642 (P&H)
- 10) Punjab National Bank, Nurmahal Vs. Balbir Kaur, 2003 (3) RCR (civil) 534 (P&H)
- 11) Girdawar Singh Vs. Gurdip Singh and others, 2010 (9) RCR (civil) 891 (P&H)
- 12) Firm Roop Milan Hotel and Restaurant Moga Vs. Sathi Roop Lal, 2011 (10) RCR (civil) 257 (P&H)
- 13) Dr. Shyam Lal Thukral Vs. State of Punjab and otehrs, 2014 (5) RCR (civil) 912 (P&H)
- 14) Prem Chand Vs. Satluj Construction Ltd. 2014 (28) RCR (civil) 891 (P&H)

The Hon'ble Supreme Court in **Ramrameshwari Devi's case** (supra) imposed costs of ₹2 lacs on the defaulting party for delay in civil litigation. Similarly, the Hon'ble Supreme Court imposed exemplary costs of ₹25 lacs on each of the parties for wasting considerable judicial time of the court in **Messer Holdings Ltd's case** (supra). In the case in hand, petitioner is not a poor litigant but it is a real estate company. Petitioner has also been found guilty of non compliance of the abovesaid order passed by this court and it has not been found entitled for any further indulgence at the hands of this Court, for permitting it to lead its remaining evidence. It is so said, because the petitioner had earlier approached this Court and that too, about eight years ago, when only two more opportunities were granted to the petitioner to conclude its evidence but the same has not been concluded so

**CR No. 3429 of 2017 (O&M)
and connected cases**

8

far, thus, petitioner has not been found entitled for any kind of relief either on facts or in law.

When confronted with the abovesaid factual as well as legal aspect of the matter and to explain the conduct of petitioner, learned counsel for the petitioner had hardly anything to say and rightly so, it being a matter of record. If the civil suits filed by the petitioner are permitted to go at this pace, these are not likely to be decided in next two decades. On the other hand, petitioner would be accusing the courts for delayed disposal of the cases. It seems that petitioner has been proceeding on a malafide intention for extraneous considerations to keep the civil suits pending, taking the shelter of one or the other excuse on the basis of technicalities.

This court is of the firm opinion that glaring misuse of process of law cannot be permitted at any cost. Such unscrupulous litigants have no place in the courts of law, who want to wash their dirty linens in the court, for one or the other extraneous reasons. Law must take its own course. Petitioner has misconducted to such an extent that it does not deserve any sympathy from the court as well. The learned trial court has rightly allowed the application moved by the defendants for closing the evidence of the plaintiff by way of impugned order and the same deserves to be upheld.

It is equally important to note here that this bunch of revision petitions would not be maintainable before this Court in view of the provision contained in Section 8 of The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, which reads as under;-

***“Bar against revision application or petition
against an interlocutory order.-- Notwithstanding***

**CR No. 3429 of 2017 (O&M)
and connected cases**

9

anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court”

Petitioner, for the reasons best known to it, filed these civil revision petitions but did not make even a passing reference of the abovesaid provisions of law, with a view to explain as to how these revision petitions would be maintainable. It also prima facie shows that petitioner has tried to play hide and seek with the courts for extraneous reasons best known to it. However, such an unwarranted approach adopted by the petitioner has rendered it disentitle not only for the discretionary relief at the hands of this Court but also for any kind of sympathy, because overall conduct of the parties to the litigation is also one of the relevant factors.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned court below, warranting interference at the hands of this court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that all these five revision petitions are misconceived, bereft of merit and without any substance. Thus, these must fail. No case for interference has been made out.

**CR No. 3429 of 2017 (O&M)
and connected cases**

10

Consequently, petitioner is directed to deposit the total amount of costs, indicated above, with the District Legal Services Authority, Gurugram, within a period of three months from the date of receipt of certified copy of this order, failing which, the Secretary, Legal Services Authority, Gurugram, shall be at liberty to recover the amount of costs from the petitioner, in accordance with law.

Resultantly, with the abovesaid observations made, these five civil revision petitions stand dismissed with costs, as indicated above.

Registry is directed to send a copy of this order to the Secretary, District Legal Services Authorities, Gurugram.

11.5.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No