

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

Civil Revision No.373 of 2012 (O&M)

Date of decision: January 10, 2017

Wazir Chand

...Petitioner

Versus

Krishan Parkash Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Viney Saini, Advocate for
Mr. G.S. Nagra, Advocate for the appellant.
Mr. Liaqat Ali, Advocate for respondents No.1 & 2.

Rajan Gupta, J.(oral)

Challenge in the present petition is to order dated 16.11.2011, passed by Addl. Civil Judge (Sr. Division), Nakodar, whereby application moved by the petitioner for release of ₹1,08,000/- deposited before the executing court in light of order dated 07.04.2003, passed in Civil Revision No.2960 of 2002, has been rejected.

The order has been assailed by the petitioner on the ground that amount had been deposited by respondents No.1 & 2 during the pendency of the earlier revision petition in order to show their bonafides that they did not intend to delay the proceedings. On conclusion of the matter, the amount needs to be released to the petitioner.

Prayer has been opposed by counsel appearing for respondents No.1 & 2. According to him, plea of the petitioner has been rightly rejected by the court below.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, a suit was filed by Wazir Chand (petitioner herein) for specific performance on the basis of agreement to sell dated 18.03.1989. Said suit was decreed by the civil court on 20.01.1995. Petitioner thereafter filed execution proceedings before the court below. During the pendency of the execution proceedings, respondents No.1 and 2 filed certain objections and wished to lead evidence in support of same. The same was dismissed by the Executing Court on 18.12.2001. Appeal preferred against the said order was also dismissed by appellate court on 7.5.2002. A revision petition i.e. Civil Revision No.2960 of 2002 was preferred by the petitioner, which was disposed of vide order dated 7.4.2003. Same reads as under:-

Mr. O.P. Hoshiarpuri, learned counsel for the petitioners made a statement that petitioners are ready to deposit Rs.10,000/- per acre per annum from the date of passing of the decree i.e. 20.1.1995 before the Executing Court till the execution petition is decided.

Mr. Vivek Sharma, Advocate appearing for the respondents made a statement that he has no objection to the offer made by the learned counsel for the petitioners.

In view of the above, it is ordered that petitioners will deposit Rs.10,000/- per acre per annum from the date of decree i.e. 20.1.1995 till the execution petition is decided within one month and the order passed by the trial court is set aside. Petitioners will get an opportunity to lead evidence to prove their case. In case, petitioners do not deposit the amount within the stipulated period, the objection petition shall stand dismissed.

The amount so deposited by the petitioner be invested in the shape of FDR in some nationalized bank.

The civil revision stand disposed of accordingly. ”

The objections were ultimately dismissed on 20.12.2006 and appeal against the said order was dismissed on 24.7.2009. The execution proceedings, thus, culminated and possession was handed over to Wazir Chand. Proceedings remained pending for more than fifteen years. It is evident that respondents No.1 & 2 remained in possession of the property for a considerable period despite being judgment debtors in decree passed way back in the year 1995.

Under the circumstances, it shall be in the interests of justice that amount of ₹1,08,000/-, deposited with Uco Bank in the shape of FDR in view of order passed in aforesaid civil revision petition, is released to the petitioner at the earliest. Needful be done within three weeks of receipt of copy of this order. Revision petition is allowed in these terms.

(RAJAN GUPTA)
JUDGE

January 10, 2017
'Rajpal'