

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

**CR No. 5316 of 2016**

**Date of decision : 06.03.2017**

Parmod Kumar

...Petitioner

V/s

Yash Pal

...Respondent

**BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Robin Dutt, Advocate for the petitioner.

Mr. Vibhor Bansal, Advocate for the respondent.

**RAJAN GUPTA J.**

In the present revision petition challenge is to two orders of even date whereby application moved by plaintiff-petitioner under section 28 of the Specific Relief Act was rejected and that moved by defendant for enlargement of time under section 148 CPC was accepted.

Primarily challenge has been made to the orders on the ground that application by defendant under section 148 CPC should have been moved before the same court which granted the decree and not the executing court. Besides, petitioner took no steps in terms of the decree for a considerable period. Thus, both the orders are vitiated.

It appears plaintiff filed a suit for specific performance on the basis of agreement to sell dated 19.10.2005 in respect of small piece of land, total consideration being ₹3,23,000/-. Admittedly, plaintiff paid ₹2,01,000/- in the initial period of agreement itself. Thereafter by mutual agreement parties extended the time to 20.03.2006 for payment of balance consideration. Plaintiff namely Yash Pal filed a suit for specific

performance. Same was decreed in the following terms:-

*“17. As a sequel to my findings on all the issues above, present suit for possession by way of specific performance of agreement to sell 19.10.2005, succeeds and is hereby decreed with costs. Defendant is directed to execute and get registered sale deed in respect of suit land in favour of plaintiff, on receipt of balance sale consideration at the expenses of plaintiff within two months. Defendant is also restrained from alienating the suit land in any manner to anybody else except plaintiff. Plaintiff is directed to get the balance sale consideration deposited in the treasury within two months from the date of passing this judgment, failing which present suit shall stand dismissed automatically. Decreed sheet be drawn accordingly. File be consigned to the record room after due compliance.”*

Defendant-petitioner preferred an appeal before the court of Additional District Judge. However, he withdrew the appeal in 2015. Meanwhile, petitioner-defendant moved application dated 01.05.2012 under section 28 of Specific Relief Act for rescission of contract due to failure of plaintiff to deposit the balance consideration. Another application under section 148 CPC was moved by plaintiff on 02.03.2013 seeking enlargement of time for deposit of sale consideration. The court accepted the plea of the petitioner to deposit the balance consideration with interest @ 18% from the date of passing of judgment and decree. Mention was made in the order that a separate application has also been preferred by defendant-petitioner under section 28 of the Specific Relief Act. The court decided the said application as well on the same day and rejected the plea for rescission of contract. I am of the considered view that there is no infirmity with the order passed. The major part of the consideration has been paid by the plaintiff during the initial stage itself. Even weighing the equities, plaintiff would be entitled to

specific performance in terms of the agreement entered into with the petitioner-defendant. Petition is without any merit and is hereby dismissed.

March 06, 2017  
*Ajay*

(RAJAN GUPTA)  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |