

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

**Civil Revision No.5129 of 2017
Date of Decision:04.08.2017**

Satinder Pal Singh

...Petitioner

Versus

Karamjit Singh and others

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.3 – judgment debtors have challenged the order dated 11.07.2017 passed by the learned Additional Civil Judge (Senior Division), Malout, by filing a revision petition under Article 227 of the Constitution of India.

Plaintiffs had filed a suit for specific performance of agreement to sell, which was decreed on 12.08.2016. Plaintiffs were granted four months' time to deposit the balance sale consideration. Plaintiffs filed an application on 19.12.2016 pleading that on account of demonetization, it was not possible to withdraw the cash from the bank as the banks are not permitting withdrawal of the amount. Decree-holders sought extension of time. Decree-holders also prayed that they may be permitted to deposit the amount by way of cheque or demand draft. The aforesaid application has been allowed by the Court. While allowing the application, the Court has

recorded as under:

"I have heard ld. Counsel for the parties and have gone through the file. Perusal of Judgment dated 12.8.2016 passed in present suit for specific performance in favour of DH shows that no conditional order was passed regarding depositing of balance sale consideration to the effect that if DH fails to deposit the balance sale consideration, decree shall stand nullity. I am hereby supported with Hon'ble High Court authority titled as Ashok Kumar vs Satnam Singh & Ors. 2015 (Suppl.)CCC 306 in which it has been held that if there is no condition attached with decree that in case amount is not deposited within stipulated time, decree passed would become inoperative and suit shall be deemed to be dismissed and there is no application filed by defendants for rescinding the contract u/s 28 of Specific Relief Act. Permission will granted to deposit balance sale consideration. Moreover, no application for rescinding the contract u/s 28 of Specific Relief Act was filed after the lapse of four months and before filing of present applicant by JD. Even if we assume for the sake of arguments that application u/s 28 of Specific Relief Act was there still court has power to grant extension of time for depositing balance sale consideration. I am hereby supported with Hon'ble Supreme Court authority titled as S. Mohan Singh through his power of attorney Manjit Singh vs Mangi lal 1997 (1) SLJ 334 in which it has been held that court has power to enlarge the time in favour of Judgment debtor to pay the amount or to perform the conditions mentioned in the decree for specific performance, in spite of an application for rescission of the decree having been filed by judgment debtor and rejected. Court has the discretion to extend time for compliance of the conditional decree as mentioned in the decree for specific performance. Furthermore, I am hereby

also supported by Hon'ble Supreme Court authority Md.Alimuddin Vs Waizuddin & Anr. 1997(1) LJR 328 in which it has been held that Court allowed to deposit the balance amount of consideration and it is discretion of the court to extend the time.

As such, in view of the above mentioned authorities, present application for extension of time is hereby allowed and DH is directed to deposit the balance sale consideration within one month from the date of this order. It is pertinent to mention over here that no further time shall be granted after lapse of one month. Application is accordingly dispose of.”

Petitioner has challenged the aforesaid order. Counsel for the petitioner has argued that the plaintiffs/respondents did not establish on file that he had requisite money within the time prescribed by the Court. He has further submitted that the petitioner had also filed an application for rescinding the contract as the plaintiffs had failed to pay the amount, which is still pending.

I have considered the submissions of the learned counsel and with his able assistance gone through the application, decree passed by the Court, application seeking extension of time and the order passed. A reading of the application for extension of time would show that the plaintiffs had pleaded that on account of demonetization the banks are not permitting withdrawal of cash amount. The plaintiffs had prayed that they may be permitted to deposit the balance sale consideration by way of cheque or draft. They had prayed for condoning the delay by granting extension.

The learned Court after appreciating the contents of the

application and reply filed, allowed the aforesaid application. The learned Court has given cogent reasons to allow the extension of time. There is no dispute that Section 28 of the Specific Relief Act enables the Court to extend the time for deposit of the amount. Therefore, the first submission of the learned counsel cannot be accepted.

Learned counsel for the petitioner has further submitted that the judgment debtors had filed an application for rescinding of the contract in view of non-deposit of the amount and that application has not been decided.

I have carefully considered the submission of the learned counsel, however, I am unable to agree.

Once the Court has chosen to grant extension for a period of one month, the application for rescinding of the contract has become infructuous because the time granted in the decree has not expired in view of extension granted. Only reason for seeking rescission of the contract was that the amount has not been deposited. Therefore, the aforesaid application has become infructuous.

Finding no merit in the revision petition, the same is dismissed.

(ANIL KSHETARPAL)
JUDGE

04.08.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No