

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

CR No.6056 of 2015

Date of Decision: 11.09.2017

Bijender Kumar Rathi and anotherPetitioners

Versus

District Bar Association, Sonapat and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ashish Pannu, Advocate
for the petitioners.

Mr. Navmohit Singh, Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. Petitioners have assailed the order dated 17.08.2015 passed by Additional Civil Judge (Senior Division), Sonapat, whereby objections filed by respondents No.1 to 4 in the execution petition were disposed of and decree holders were held entitled to the allotment of one chamber bearing Serial No.142 instead of allotment as per terms and conditions of decree passed in the suit.

[2]. Plaintiffs/petitioners filed a suit for declaration with consequential relief of permanent injunction and possession to the effect that they are members of District Bar Association and are enrolled with the District Bar Association, Sonapat. The suit

was filed against numerous defendants with the aid of Order 1 Rule 8 CPC.

[3]. Government of Haryana allotted the land to the Bar Association for construction of chambers for Lawyers in the year 2000-01. 109 chambers were constructed and allotted to the Advocates in an open draw held on 07.03.2002 by the Allotment Committee. The cost of the chamber was assessed to be Rs.27,000/-. For construction of new chambers for the Lawyers, the matter was debated and cost of construction of the chamber was assessed to be Rs.40,000/-. Thereafter, 59 chambers were constructed and were allotted as per principle of 'first come first basis'. Plaintiff No.1 deposited an amount of Rs.15,000/- on 17.11.2006 and thereafter, deposited further sum of Rs.15,000/-. He stood at serial No.93. Plaintiffs were in the waiting list in the matter of allotment of chambers. Due to paucity of chambers, many members of the Bar Association withdrew their amount being in waiting list for allotment of chambers. Plaintiff No.1 withdrew an amount of Rs.25,000/- out of Rs.30,000/-. The amount of Rs.5000/- was left in lieu of security for the chamber. Plaintiff No.2 deposited an amount of Rs.10,000/- at serial No.28 of new list on 11.03.2008 and Rs.20,000/- on 27.03.2008 and thereafter, he also deposited an amount of Rs.17,000/- as per demand of defendant No.1.

[4]. Plaintiffs alleged that a meeting was held by the Executive Committee of the Bar Association and it was decided that the new chambers will be constructed and allotted as per priority basis. The cost of construction was assessed to be Rs.41,000/- per chamber, which was inclusive of POP tiles and paint etc. The amount was demanded from the advocates accordingly. Thereafter, defendant No.2 circulated a notice of District Bar Association to deposit Rs.30,000/- with defendant No.4. Therefore, plaintiff No.1 further deposited a sum of Rs.25,000/- besides already deposited a sum of Rs.5000/-.

[5]. Thereafter, cost of the chamber was further increased from Rs.41,000/- to Rs.47,000/- and the candidates were informed to deposit the amount of Rs.17,000/- upto 13.06.2008. Plaintiff No.1 asserted that an amount of Rs.17,000/- was deposited by him within the stipulated period and the same was duly entered into the record register, however, no receipt was issued. There was a dispute with regard to material used as well as increase in the cost of price that resulted in some tussle between plaintiffs and defendant No.2.

[6]. Plaintiffs alleged some foul play at the instance of defendant No.2. Plaintiffs have also pleaded some more facts in the context of highlighting some proceedings of the Bar Association in respect of amount lying with the chamber

construction account of the District Bar Association and the amount ultimately deposited by the members of the District Bar Association in order to get the new chambers.

[7]. Shorn of unnecessary details in the present context, a compromise was effected between the parties before the trial Court on 12.03.2013. Before entering into the compromise, a meeting of Bar Association was held on 26.02.2013, which was presided by the then President of District Bar Association, Sonapat in the presence of other office bearers and members of the Executive Committee. It was decided in the meeting that the amount deposited by the petitioners i.e. Rs.47,000/- each will be adjusted in allotment amount of newly under construction chambers and two chambers will be allotted to the petitioners on priority basis and the increased amount will be paid by the petitioners. For ready reference, para Nos.2 to 6 of the compromise dated 12.03.2013 are reproduced hereasunder:-

“2. That it was also decided in the meeting that amount deposited by petitioners which are Rs.47,000/- each will be adjusted in allotment amount of newly under construction chambers and 2 chambers will be allotted to petitioners on the priority basis and increased amount will be paid by the petitioners.

3. That it was also decided in said meeting that Sh. Rajiv Dahiya, President District Bar Association, Sonipat is authorized by the District Bar Association,

Sonipat and aforementioned executive meeting to dispose off the abovementioned case.

4. That after decision of said meeting, on 02.03.2013 it is also decided between the petitioner and respondents that amount of Rs.47,000/- each which was already deposited by the petitioners will be adjusted in under construction chambers “which are under construction since 2012 at vacant space between Hanuman Temple and old chambers” and 2 chambers will be allotted to petitioners on priority basis as per rules and after completion of construction of chambers, possession of 2 chambers will be given to petitioners on priority basis.

5. That aforementioned compromise and decision taken in executive committee meeting will be considered as an unanimous decision of both petitioners and respondents and all members of District Bar Association, Sonipat. And both parties shall not make any objection to it and it is binding on both parties.

6. That certified copy of resolution dated 26.02.2013 entered in register of minute of meetings of District Bar Association, Sonipat is annexed with. And which is Ex.C-2.”

[8]. Thereafter, plaintiffs/petitioners alleged to have issued a letter to the President, District Bar Association, Sonipat with regard to allotment of chambers in the newly under construction chambers. A request was made for the allotment of the

chambers as per conditions of the compromise on priority basis.

The said letter of request was issued on 15.07.2013.

[9]. Trial Court decreed the suit on the basis of compromise. The operating part of the judgment dated 26.07.2013 reads as under:-

“3. On 12.03.2013, a compromise deed was finalized between the plaintiffs and District Bar Association, Sonipat through its Secretary and President of District Bar Association. The said compromise deed is available on record as Ex.C1. As per this compromise deed the Executive Committee of the District Bar Association, Sonipat discussed pendency of this case and admitted plaintiffs claim to the chambers. It was decided to adjust the previous payments made by the plaintiffs in the costs of construction of new chambers and to allot chambers to them after completion of construction. Copy of resolution dated 26.02.2013 of the Bar Association is also placed on record as Ex.C2.

4. Since the claim of the plaintiffs has been admitted by the defendant Bar Association, Sonipat, therefore the instant suit is decreed with no orders as to costs in terms of compromise Ex.C1 and Resolution Ex.C2, which shall form part and parcel of the decree. Decree sheet be drawn accordingly and file be consigned to the records.”

[10]. Thereafter, a legal notice was allegedly issued by the plaintiffs to the District Bar Association in the context of disclosing the due amount payable by the petitioners.

Ultimately, execution of decree dated 26.07.2013 was filed by the petitioners for recovery of possession of two chambers in the newly constructed chambers on 12.02.2015. *Ad Interim* injunction was also sought, restraining the judgment debtors from allotting and delivering possession of the newly chambers to other members of the Bar Association till satisfaction of the decree in favour of the plaintiffs/petitioners. An application was also moved by the plaintiffs/petitioners for deposit of the balance amount on 12.02.2015.

[11]. Judgment debtors No.1 and 2 filed objection in the execution petition alleging that the judgment and decree dated 26.07.2013 was passed on the basis of compromise and in the original suit filed by the decree holders/plaintiffs, District Bar Association was not the party to the suit. Besides, raising other objections, it was submitted that the decree holders despite having decree in their favour failed to deposit the balance price of the chambers despite repeated asking by the District Bar Association. Objections were also filed by the other judgment debtors.

[12]. Executing Court vide order dated 17.08.2015 held that the decree holders are entitled to allotment of one chamber bearing serial No.142 in pursuance of the judgment and decree dated 26.07.2013 subject to payment of remaining amount of

Rs.1,01,600/- each to be deposited by the decree holders within 15 days from the date of passing of the order. The chamber construction committee of District Bar Association, Sonapat was directed to allot the said chamber to the decree holders on receiving the balance amount of Rs.1,01,600/- each from them.

[13]. In view of part acceptance of the claim of the decree holders to the extent of allotting one chamber bearing serial No.142 subject to payment of balance amount, the objections filed by the judgment debtors on merit are not necessarily to be decided in the present revision petition as the judgment debtors are not aggrieved by the order dated 17.08.2015 passed by the Executing Court.

[14]. Evidently, the claim of the decree holders with regard to allotment of new chambers has been partly accepted. They have been held entitled for allotment of one chamber. The decree was passed with regard to allotment of chamber on priority basis. It appears that the allotment of one chamber in favour of the decree holders is without adhering to the decision made by the judgment debtors at the time of compromise that the allotment of chambers would be on priority basis.

[15]. At this stage, I am of the view that since the judgment debtors are not aggrieved by the impugned order dated 17.08.2015 passed by the Executing Court, therefore, this order

is required to be modified to the extent of directing the judgment debtors/respondents to adhere to the decision of allotment of the chambers on priority basis. Since the decree holders have been held entitled to one chamber, therefore, instead of allotting chamber at random basis, principle of priority basis as agreed between the parties should be adhered to in case of allotment of chamber in favour of the petitioners.

[16]. With this modification, this revision petition is disposed of. However, it is made clear that the petitioners/decreed holders would be entitled to only one chamber on priority basis as agreed between the parties at the time of effecting compromise dated 12.03.2013.

11.09.2017

prince

Whether Reasoned/Speaking

Whether Reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No