

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 8042 of 2017

Date of Decision:20.11.2017

Mr. K.N.Shukla and others

---Petitioners

vs.

Sh. Anil Jain and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. B.R.Mahajan, Senior Advocate
with Mr. Deepak Sabherwal and
Mr. Saurabh Mago, Advocate
for the petitioners

Rekha Mittal, J.

Challenge in the present petition has been directed against order dated 9.10.2017 passed by the Executing court whereby the petitioners have been directed to execute the sale deed with regard to land situated at NH-24 Ghaziabad measuring 1.7243 Hectare, detailed in clause 4.5 of the consent award dated 26.4.2007 within a period of one month for consideration to be decided by the first party namely Sh.Anil Jain and others.

Counsel for the petitioners has submitted that dispute between the parties was referred to Sh. Uchit Bhandari, sole Conciliator and the same was settled vide settlement agreement and award on agreed terms dated 26.4.2007 (Annexure P-1) wherein Sh. Anil Jain and others were referred to as the first party and Sh. K.N. Shukla and others were referred

to as the second party. As per consent award, responsibilities and rights of the first party are detailed in para 4 (sub paras 4.1 to 4.10) whereas of the second party are incorporated in para 5 (sub paras 5.1 to 5.29). It is argued with vehemence that as respondents have failed to discharge their obligations under the consent award by transfer of Pent house No. C-2 at Lotus Pond Ghaziabad and the other property i.e. plot has been resumed by the Okhla Industrial Development Authority, the respondents cannot assert their right to seek transfer of property in question, thus, the Executing Court has seriously erred by issuance of direction to execute the sale deed in respect of land situated at NH-24 Ghaziabad measuring 1.7243 Hectare. Another submission made by counsel is that the petitioners filed execution in respect of award in question against which Anil Jain and others raised objections but the matter was decided by the Additional District Judge, Amritsar vide order dated 11.2.2009 (Annexure P-5) whereby the respondents were directed to execute the award within a period of two months from the date of order but they failed to do so and in this regard, the petitioners have initiated contempt proceedings (Annexure P-10) but the court below without deciding application of the petitioners has accepted plea of the respondents and issued directions for execution of the sale deed. It is argued with vehemence that impugned order may be set aside with a direction to the Executing Court to decide application of the petitioners for initiating contempt proceedings against the respondents and the instant application simultaneously.

I have heard counsel for the petitioners, perused the paper book particularly various annexures appended with the petition.

Indisputably, the parties were able to arrive at a settlement and decided to sort out their dispute in view of the agreed terms with the intervention of Sh. Uchit Bhandari, sole conciliator and the terms were reduced into writing vide award dated 26.4.2007 (Annexure P-1). The petitioners filed an application for execution of the award wherein the respondents raised certain issues by filing objections but eventually the objections did not find favour with the Executing Court and the Court directed the respondents to execute the award within a period of two months from the date of order i.e. 11.2.2009. The respondents challenged the said order by way of Civil Revision No. 3081 of 2009 but the same was dismissed vide order dated 14.7.2009 (Annexure P-9) passed by this Court. The Executing Court appointed a Local Commissioner on 28.5.2009 for signing the documents in favour of the decree holders namely K.N.Shukla etc. on behalf of the Judgment debtors i.e. Anil Jain etc. The Local Commissioner, an official attached to the Court of Additional District Judge, Amritsar submitted report dated 29.8.2009 (Annexure P-11) and a relevant extract therefrom reads as follows:-

“I appeared on behalf of JDs before the Sub Registrar, Amritsar and executed 31 documents in the shape of sale deeds in favour decree holders and received the consideration amount in the shape of demand drafts on behalf of JDs. On 6.7.2009, I also issued registered notice to JDs alongwith details of drafts in which JDs were requested to collect the demand drafts, otherwise, consideration amount will be deposited in the Court on

the date fixed i.e. 29.8.2009.”

Once the petitioners have got the award executed in their favour through process of the Court, may be, partly it does not lie in the mouth of the petitioners to contend that till the respondents discharge their entire liability under the consent award, they cannot seek execution of the award for enforcement of liability imposed upon the petitioners. In this view of the matter, I find myself unable to accept contention of the petitioners that the order impugned suffers from any patent error much less illegality warranting intervention. The mere fact that the petitioners have filed an application for initiating contempt proceedings against the respondents does not constitute a ground for setting aside the order impugned and remittance of the matter to the Court below for decision afresh while disposing of application for initiating contempt proceedings, particularly in the face of report of the Local Commissioner having executed order dated 11.2.2009 on behalf of the respondents.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

20.11.2017
paramjit

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