

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.941 of 2016

Date of Decision:28.11.2017

Parminder Singh

...Petitioner

Versus

Sukhwinder Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, J. (ORAL)

Petitioner is in the revision petition against the order dated 28.10.2015, dismissing three applications filed by the petitioner-decree holder.

The decree-holder had filed an application dated 18.12.2014, calling upon the court to pass an appropriate order, permitting the decree holder to deposit the balance sale consideration or to adjust the amount of mortgage with the balance sale consideration.

The second application was filed on 27.7.2015, seeking condonation of delay in deposit of the balance sale consideration and for extension of time for deposit of the balance sale consideration.

The third application was filed on 28.10.2015 for permitting deposit of the remaining sale consideration.

It is pertinent to note that the suit for specific performance of the agreement to sell was decreed on 23.7.2008. As per the decree, decree holder was required to deposit the balance sale consideration within a period of two months from the date of judgment. It is not in dispute that the

defendant filed an appeal, which was dismissed on 17.8.2011. Thus, the decree had become final.

The decree holder neither deposited the amount during the pendency of the first appeal nor after decision of the first appeal. The decree holder filed an execution petition on 20.3.2012. Even at that time, petitioner-decree holder did not deposit the amount. Petitioner filed an application for extension of time only on 27.7.2015, i.e. after a period of almost 7 years from the date the decree was passed by the learned trial court and after a period of four years from the date the first appellate court had affirmed the decree. Taking into consideration these facts, the learned executing court has dismissed all the three applications.

I have heard the learned counsel for the petitioner at length and with his able assistance gone through the impugned order passed by the learned executing court.

In this case, the decree was a conditional decree passed in favour of the decree holder. The decree holder was required to pay the amount within a period of two months from the date of judgment. Even if, for the sake of argument it is assumed that decree holder was justified in waiting for the outcome of first appeal which was decided on 17.8.2011, still thereafter, there is no justification on the part of the petitioner not to deposit the amount. As noticed earlier, application for extension of time was filed on 27.7.2015. Petitioner took a stand that there was some confusion regarding the price of the land. Petitioner has not deposited any amount, even if he was having any confusion. Learned counsel for the petitioner has submitted that in the judgment of the first appellate court, on account of typographical mistake, the price of the land was mentioned as

Rs.3.50 lacs per acre. However, the petitioner has not even deposited the remaining sale consideration taking into consideration the price of land @Rs.3.50 lacs per acre. He has further submitted that the land was under mortgage with the bank and the remaining amount was to be deposited only in the bank. However, admittedly petitioner did not deposit the amount in the bank.

Taking into consideration these facts, this Court does not find any good ground to interfere with the impugned order passed by the learned executing court.

The instant revision petition is hereby dismissed.

28.11.2017
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No