

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

CR No.933 of 2015
Date of decision : 06.12.2017

Lakhwinder Singh

...Petitioner

Versus

Nirmal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harshit Jain, Advocate for the petitioner.

Mr. V.G. Jaghar, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The petitioner has filed this revision petition against the order dated 17.01.2015 passed in the execution petition.

The plaintiff-petitioner had filed a suit for specific performance of the agreement to sell. The suit was partly decreed and the plaintiff was held entitled to refund of the earnest money on delivery of possession back to the defendants. The relevant part of the decree, reads as under:-

“However, in view of the finding on issue No.6, the plaintiffs suit is decreed partly for recovering his amount of Rs.75000/- on delivery of possession of the suit land to the defendants.”

It is not in dispute that the defendants have deposited the amount of ₹75,000/- payable to the plaintiff.

In view of the deposit amount of ₹75,000/-, the warrants of possession

were issued against the plaintiff for delivery of possession. The plaintiff filed the objections which were dismissed.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner has submitted that the defendants can get back the possession only by filing the suit. He has submitted that since there was no counter claim or decree in favour of the defendants, therefore, in execution of the decree, possession cannot be delivered to the defendants.

I have considered the submissions. However, I do not find any substance in it.

A reading of the decree would show that both the parties were directed to perform their part of the duty under the decree. The plaintiff was held entitled to refund of ₹75,000/- whereas the plaintiff was bound down to deliver the possession back to the defendants on recovery of ₹75,000/-. It is not in dispute that ₹75,000/- as ordered by the Court has already been deposited. Once there is a decree of the Court which is in specific terms, the argument of the learned counsel for the petitioner cannot be accepted.

Learned counsel for the petitioner has further submitted that defendant No.1-Nirmal Singh has transferred the suit property in favour of Hardev Singh and Tej Kaur, therefore, Nirmal Singh is not entitled to file the execution petition. It may be noticed that Nirmal Singh and Hardev Singh i.e. defendant Nos.1 and 2 are brothers, whereas defendant No.3-Tej Kaur is wife of defendant No.2. So all of them are family members. The plaintiff is not entitled to retain the property after the defendants have complied with their obligation under the decree. The plaintiff has no locus standi

to object to the delivery of possession.

The plaintiff is bound to return back the possession in terms of the decree. In view thereof, this Court does not find any good ground to interfere with the impugned order passed.

Revision petition is dismissed.

06.12.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No