

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

Date of Decision: 11.09.2017

- 1. CWP No.5822 of 2012**
Vijay Kumar SinglaPetitioner
Vs.
The Commissioner, Patiala and othersRespondents
- 2. CWP No.20556 of 2017**
Kusam SinglaPetitioner
Vs.
State of Punjab and othersRespondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Vijay Kumar Singla, petitioner in person in
CWP No.5822 of 2012.

Mr. Puneet Bali, Senior Advocate with Mr. Rose Gupta,
Advocate for the petitioner in CWP No.20556 of 2017.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Sapan Dhir, Advocate for the intervenor.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of two petitions i.e. CWP No.5822 of 2012 (Vijay Kumar Singla v. The Commissioner, Patiala and others) (first petition) and CWP No.20556 of 2017 (Kusam Singla v. State of Punjab and others) (second petition) as both the cases are inter-connected.

The brief facts of the case are that one M/s Jyoti Rice Mills, Dhuri was comprised of two partners, namely, Sant Ram and Satish Kumar Singla. The firm obtained loan from Punjab Financial Corporation by mortgaging its immovable property measuring 2 kanals 19 marlas and one half share of the land measuring 4 kanals 8 marlas (total 5 kanals 3 marlas). Since the loan amount was not paid by the firm, therefore, the Punjab Financial Corporation initiated the proceedings under Section 31 of the

State Financial Corporation Act, 1951 for (for short, 'the Act'). The application was allowed and the aforesaid mortgaged property was put to sale through Court auction. The mortgaged land was purchased by Vijay Kumar Singla (petitioner) in the Court auction and the sale certificate was issued to him on 21.08.2003. Warrant of possession was also issued on 31.05.2004. Thereafter, Vijay Kumar Singla sold one bigha one biswa to one Bimal Muni on 04.06.2004 and executed four sale deeds on 30.05.2011 of one bigha. Thus he was left with 1 bigha and 16 biswas of land. Vijay Kumar Singla executed a sale deed of 4 bigha 8 biswas in favour of Kusam Singla wife of Satish Singla on 08.10.2011. At that time, he produced the said sale deed for registration before the Sub Registrar, Dhuri but on 13.10.2011, The Sub Registrar, Dhuri referred the sale deed to the Registrar and Registrar who on 02.11.2011 directed the Sub Registrar to register the sale deed. However, the Sub Registrar did not register the sale deed and thus Vijay Kumar Singla approached this Court by way of first writ petition, seeking a mandamus to respondent No.3, to register the sale deed dated 30.10.2011. During the pendency of this writ petition, Navneet Singla son of Sanjiv Kumar filed an application under Order 1 Rule 10 CPC bearing CM No.7329 of 2013 which was allowed and he was impleaded as respondent No.5.

The petitioner- Vijay Kumar Singla filed CM No.10655 of 2017 for seeking permission to withdraw the writ petition. This application was contested by respondent No.5 by filing reply. The petitioner- Vijay Kumar Singla has submitted that he may be allowed to withdraw the writ petition as he does not want to get the sale deed registered. While this petition was

pending for today, the second petition also came up for hearing in urgent list. This petition is filed by Kusam Singla to whom Vijay Kumar Singla had allegedly sold the property in question by sale deed executed on 08.10.2011.

Shri Puneet Bali, learned senior counsel has also prayed in this case for seeking a direction to the Sub Registrar for registration of the sale deed dated 08.10.2011 which was executed by Vijay Kumar Singla on 13.10.2011 because he had also taken the sale consideration and delivered the possession. It is submitted that it is only the formality of registration of the sale deed which is to be performed by Vijay Kumar Singla because as per Section 17 of the Indian Registration Act and if the immovable property is of the value of more than ₹100/- then it requires compulsory registration.

I have heard learned counsel for the parties and perused the record. The question arises in this case is as to whether the petitioner Vijay Kumar Singla who is asking for withdrawal of the petition on the ground that he does not want to get the sale deed registered can be forced to pursue this petition for the purpose of registration of sale deed against his wishes. To my mind, Vijay Kumar Singla cannot be forced in this petition filed by him for seeking a mandamus for registration of the sale deed when he does not want to press this petition and wanted to withdraw it. The question is then what are the rights and remedies available to Kusam Singla to whom he has agreed to sell the land in question and had allegedly already taken sale consideration and delivered possession. In such circumstances, the only remedy available to Kusum Singla is to file a suit for specific performance for the execution of the sale deed because of the refusal on the part of Vijay

Kumar Singla today in Court.

In view thereof, the first petition is hereby ordered to be dismissed as withdrawn recording specifically therein that the petitioner does not want to pursue this petition because he does not want to sell the property in question to Kusam Singla for which he has allegedly already taken sale consideration and delivered possession. The refusal today on the part of Vijay Kumar Singla would give a cause of action to Kusam Singla to take the remedy of filing a suit in accordance with law for seeking performance of the execution of the sale deed through the process of Court. It is needless to mention that if respondent No.5 has some rights involved in this litigation then he would be free to join the proceedings, if any, initiated at the instance of Kusam Singla.

Lastly, it is mentioned that if there is any change of heart insofar as vendor is concerned, then vendee can always file an application for revival of this petition for an appropriate order.

Disposed of.

A photocopy of this order be placed on the file of connected case.

September 11, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No