

Civil Revision No. 2605 of 2016(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2605 of 2016(O&M)
Date of Decision : 06.02.2018

Joginder Singh

...Petitioner

Versus

Paramjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Arun Jindal, Advocate for the petitioner.

Mr. Anil Kumar Garg, Advocate for the respondent.

Kuldip Singh, J.(Oral)

Impugned in the present revision petition is the order dated 23.02.2016 (Annexure P-8) passed by learned Additional Civil Judge (Sr. Divn.), Malerkotla vide which the objections filed by the JD were dismissed.

Heard.

It comes out that the suit of the plaintiff for specific performance was decreed by the trial Court vide judgment and decree dated 09.03.2006. In the appeal the parties have compromised before the Lok Adalat. As per terms of the compromise, the money was to be returned in five installments as enumerated in the said compromise and as reproduced in the lower Court order. It was further stipulated that if the defendant makes default in making payment of two consecutive installments, his appeal is deemed to have been dismissed.

Admittedly, the plaintiff failed to pay the first two installments on due date and paid it late and, therefore, defaulted in making payment of two consecutive installments. Therefore, default clause i.e. 'appeal is deemed to have been dismissed' became operative.

Now the JD is trying to explain the reason for the delay.

I am of the view that the decree is to be executed as such. If there is a default clause, it will become operative once the conditions of the compromise are not fulfilled. Therefore, it would be followed that the decree passed by the trial Court became operative and the appeal of the petitioner would stand be dismissed. Therefore, there is nothing illegal in the impugned order dated 23.02.2016 passed by the trial Court. This Court has been informed on behalf of the decree holder that the sale deed has already been executed and the execution petition has been fully satisfied. It being so, there is no ground to interfere in the impugned order.

Dismissed.

February 06, 2018
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(KULDIP SINGH)
JUDGE

Whether speaking/reasoned? Yes

Whether reportable? No