

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

115

CR-4127-2018
Date of decision : 3.7.2018

HARSIMRAN KAUR AND ANR

.... Petitioners

Versus

SURINDER KAUR AND ANR

.... Respondents.

CORAM : HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present:- Mr.Aditya Jain, Advocate
for the petitioners.

Harinder Singh Sidhu, J.

This revision petition has been filed impugning the order dated 31.5.2018 (Annexure P-10) of the Executing Court, whereby the application filed by the petitioner for directing the respondent to accept or deny the factum on oath or by way of affidavit with regard to the deposit of balance sale consideration of Rs.40 lacs, has been dismissed.

The respondents filed a suit for possession by specific performance of an agreement dated 23.6.2008 against the petitioner. The suit was decreed vide judgment and decree dated 4.5.2011. The first appeal and RSA No.1700 of 2013 filed by the petitioner have been dismissed. The RSA having been dismissed on 21.5.2014. Thereafter, the respondents initiated execution proceedings. It appears that vide order dated 27.2.2018, the objections filed by the petitioner to the execution proceedings were struck off which order was upheld by the High Court. The High Court also directed that the execution proceedings be completed within a time bound manner. In terms of the decree, balance amount of Rs.40 lacs was to be paid

to the petitioners and the petitioners were to perform their part of the contract.

In the zimini order dated 10.8.2015 (Annexure P-7), it has been recorded that the respondent/ decree holder had submitted an application for deposit of Rs.40 lacs as the balance sale consideration and a challan duly filled was also submitted which had been signed by the learned Civil Judge (Jr.Divn.), Ludhiana.

The petitioner filed an application under Section 151 CPC for directing the respondent/decreed holder to accept or deny the factum on oath with regard to deposit of balance sale consideration of Rs.40 lacs. This application has been dismissed vide impugned order.

In the impugned order it has been noticed that an application had been moved by the respondent decree holder along with challan duly filled for seeking permission of the court for deposit of the amount. The application was duly signed by the learned Judge and the respondent deposited the amount. In view thereof, learned court held that the respondents could not be directed to accept or deny the factum on oath by way of affidavit with regard to deposit of balance sale consideration of Rs.40 lacs as they have already paid the amount of Rs.40 lacs after taking necessary sanction from the court. In the impugned order, it has also been recorded that challan form is part of the case file. The documents placed on record duly proved that the amount of balance sale consideration of Rs.40 lacs has already been deposited. Accordingly, the application was dismissed.

There appears to be no infirmity in the order. The challan form is already part of the record which evidences that Rs.40 lacs has been

deposited by the respondent.

This petition is dismissed.

It would be open for the petitioner to seek release of the said amount, in accordance with law.

(Harinder Singh Sidhu)
Judge

03.07.2018

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No