

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4854 of 2017 (O/M)

Date of decision : 17.1.2018

Charan Singh

..... Petitioner

Versus

Kamlesh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Aman Mittal, Advocate, for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Heard.

Impugned in present revision is the order dated 13.7.2017 (Annexure-P-6), passed by the learned Additional Civil Judge (Senior Division), Guhla, in which in execution proceedings of decree for specific performance, an application filed by Judgment Debtor (JD) for rescission of contract dated 17.12.2008, was dismissed.

It comes out that a suit for specific performance, filed by plaintiff-decree holder, was dismissed by the trial Court. However, the lower appellate Court decreed the suit and directed defendant to execute and register the sale deed in pursuance of agreement of sale dated 17.12.2008, on receipt of balance sale consideration, within two months from passing of this judgment, failing which plaintiff shall be at liberty to get executed the sale deed in her favour through intervention of Court. In the execution proceedings, it is claimed that defendant-JD has failed to execute the sale deed. Execution proceedings have been assailed by JD on the ground that plaintiff was required to deposit sale price within two months from the date of decision of appeal, which expired on 24.4.2016,

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but the amount was deposited on 26.4.2016. Hence, contract should be rescinded. The plea did not find favour with the executing Court.

After going through the decree, I am of the view that direction was issued to execute and register the sale deed in pursuance to the agreement of sale dated 17.12.2008, on receipt of balance sale consideration. It is not the case of JD-defendant that he offered to execute the sale deed within the said period of two months and that sale consideration was not paid to him despite demand within this period of two months that is why JD did not execute the sale deed. On expiry of two months, defendant immediately deposited the amount and sought execution of decree through executing Court. Therefore, there is no ground to rescind the contract dated 17.12.2008. Application was rightly dismissed.

The learned counsel for petitioner has relied upon authority of Apex Court in *P.R. Yelumalai Verus N.M. Ravi*, 2015 (2) PLJ 540.

The said authority of Apex Court in *P.R. Yelumalai* (supra) is on the facts when there was specific direction for plaintiff to deposit the sale consideration through demand draft in the Court within specified time. Therefore, the said authority is not attracted in present case.

In view of what has been discussed above, present revision is dismissed. The trial Court is directed to expedite the execution of decree.

(KULDIP SINGH)
JUDGE

17.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No