

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

**CR no.5278 of 2018 (O&M)
Date of Decision: 19.11.2018**

Paramjit Kaur

...Petitioner

Vs.

Charanjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Deepak Goyal, Advocate, for the petitioner.
Ms. Gagan Deep Grewal, Advocate, with
Mr. B.S.Cheema, Advocate, for respondent no.1 .
Ms. Akshita Chauhan, AAG, Punjab.

Amol Rattan Singh, J (Oral)

Pursuant to the order of this Court dated 13.11.2018, an affidavit of Sh. Avikesh Gupta, SDM, Sangrur, has been filed in Court (actually in his capacity as a revenue authority), by learned State counsel, which is taken on record.

I see absolutely no reason to interfere with the impugned order, in view of the fact that the learned counsel for the petitioner again has pointed to the agreement of sale executed between the parties on 21.06.2002 (Annexure P-6 with the present petition), to submit that the said agreement was in respect of sale/purchase of 8 *bighas*, 4 *biswas pukhta* (and not *kham*) and hence, as per the learned counsel, the consideration was to be calculated at the rate of Rs.48,000/- per *bigha kham*, thereby amounting to Rs.1,44,000/- per *bigha pukhta*, consequently amounting to a total of Rs.11,80,800/-. However, it is seen from the copy of the decree Annexure P-1, passed by the learned trial court [learned Additional Civil Judge (Sr. Divn.)] Sangrur, dated 05.01.2013, that what has been decreed is as follows:-

“This suit coming on this 5th day of January, 2013 for final disposal before me (Sonia Kinra, Addl. Civil Judge (Sr. Divn., Sangur), in the presence of Sh. R.K. Garg, Advocate, for the plaintiff, Sh. K.S. Buttar, Advocate for defendants no.1 to 4 and Sh. J.S. Gill, Advocate for defendant no.5, it is ordered that the suit of the plaintiff is hereby decreed with costs to the effect that the plaintiff is entitled to get the sale deed of the suit land measuring 8 Bighas 4 Biswas out of the land measuring 32 Bighas 10 Biswas and 6 Bighas 8 Biswas comprising of Khewat No.66, Khatauni no.90, Khasra nos.1667/1354/10(0-12), 86/1 min (4-4), 1350/7 min(1-3), 1352/8 (4-3) 1566/1354/10min/1(0-10), 87min(3-11), 92min (2-5), 87min(2-14), 1350/7min(3-0), 1566/135/10min(0-3), 92min(4-0) and Khasra no.85 (6-5) situated in the revenue estate of Village Deh Kalan, as per Jamabandi for the year 1997-98 of village Deh Kalan, Teshil and District Sangrur executed in her favour as per terms and conditions of the agreement to sell dated 21.06.2002 on payment of balance sale consideration within one month of passing of the decree with the Court or with the defendants no.1 to 3. Further, defendants no.1 to 3 are directed to execute the sale deed in favour of the plaintiff within one month of deposit of balance sale consideration, failing which, the plaintiff would be entitled to get it executed through the Court.”

Thus, neither the word '*pukhta*' nor the word '*kham*' is contained in the aforesaid decree, with eventually the sale deed executed in favour of respondent no.1 herein (plaintiff) also being for an area of 8 *bighas* 4 *biswas kham*, and not *pukhta*. The said decree is stated to have been executed by the Local Commissioner appointed by the executing court.

Hence, with the rate of land settled, even as per the agreement dated 21.06.2002, being Rs.48,000/- per *bigha kham*, the total sale consideration to be paid accordingly would be for 8 *bighas* 4 *biswas kham*.

If the petitioner is aggrieved of any error in the decree issued by the trial court, obviously the remedy for such correction is not by way of this revision petition.

Learned counsel for the petitioner further submits that the aforesaid decree of the trial court, as upheld by the first appellate court, is under challenge by the son of the petitioner herein by way of RSA no.3695 of

2015 and therefore if the said appeal is allowed, the decree itself which is sought to be executed, would be obviously set aside.

I do not see how that in any manner is relevant to the controversy at hand presently, in view of the fact that there is admittedly no interim order operating in favour of the petitioner or his son in the aforesaid RSA (which otherwise as per the learned counsel for the respondents has been dismissed in default, with an application for restoration having been filed by the petitioners' son).

To repeat, the issue in the present petition only is whether the petitioner should have been paid an amount of Rs.11,80,800/- or Rs.3,33,600/-. Presently the decree issued by the trial court (upheld by the lower appellate Court), is silent on as to whether the agreement, specific performance of which was sought, was for 8 *bighas 4 biswas pukhta*, or 8 *bighas 4 biswas kham*, with the sale deed executed pursuant to that decree being only for 8 *bighas 4 biswas kham*.

Consequently, at this stage, the money which is to be paid by the respondents to the plaintiff would be accordingly the lesser amount of Rs.3,33,600/-. However, if the petitioner succeeds in getting that decree modified by any court, to the effect that it was actually 8 *bighas 4 biswas pukhta* that should have been transferred, and not 8 *bighas 4 biswas kham*, he would be entitled to the remaining consideration in terms of the rate settled in the agreement dated 21.06.2002.

With the above observations, this petition is dismissed.

19.11.2018
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes