

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

CR No.5361 of 2018

Date of Decision:14.11.2018

Ram Sanehi

.....Petitioner

Vs.

Ravinder

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Deepender Singh, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (Oral)

By this petition the petitioner challenges the order of the learned appellate Court (District Judge, Faridabad), dated 25.04.2018 (Annexure P-4), dismissing the application filed by the petitioner filed before that Court, seeking condonation of the delay in filing an appeal against the judgment and decree dated 24.09.2015 passed in favour of the respondent herein (plaintiff), thereby decreeing the plaintiffs' suit seeking specific performance of an agreement of sale.

The appeal against that judgment and decree (passed in the presence of counsel for the petitioner-defendant-Judgement debtor) was filed on 26.10.2017.

2. A perusal of the impugned order shows that after the suit was decreed on 29.10.2015, execution proceedings were initiated by the decree holder and the petitioner had put in appearance before the execution Court on 16.12.2015, and thereafter had filed his objections on 03.08.2016.

3. A reply to those objections having been filed by the decree holder, the petitioner thereafter did not put in appearance before the execution Court and was

proceeded against *ex parte*, vide an order dated 06.01.2017.

4. On 06.03.2017, a local commissioner was appointed by the execution Court for execution of the sale deed in favour of the decree holder, with the sale deed thereafter executed on 17.03.2017 and on receiving the report with regard thereto, warrants of possession of the suit property were issued in favour of the respondent-decree holder, with a report received on 17.07.2017 that the petitioner (judgment debtor) had gone away after locking the suit property.

Consequently, police help was ordered to be provided to obtain the possession of the suit property, after which, on July 20, 2017, the petitioner filed an application for setting aside the order proceeding against him *ex parte* on 06.01.2017. That application was eventually allowed on 05.02.2018 and fresh objections filed by the petitioner thereafter were dismissed on 07.04.2018, alongwith his earlier objections. Warrants of possession were again issued.

It is thus during the period between the time that the petitioner sought the setting of the order proceeding against him *ex parte* in executing proceedings and the time when that application was allowed on 05.02.2018, that he filed the appeal against the judgment and decree dated 24.09.2015.

5. Very obviously, the petitioner was aware all through of the judgment and decree passed against him, as also the execution proceedings initiated by the respondent-decree holder, to which he also filed a reply but thereafter he decided not to appear before the execution Court, leading to first warrants of possession being issued, with in the meanwhile he having filed an application for setting aside the order proceeding against him *ex parte*.

Though he filed the appeal during that time, it is again just too obvious that the appeal was filed only to further delay the grant of relief to the respondent-plaintiff, after he had lost on merits, both, in the suit itself and in the execution proceedings.

Keeping in view the aforesaid set of circumstances, I see no reason to entertain this petition. Consequently, dismissed in *limine*.

(AMOL RATTAN SINGH)
JUDGE

November 14, 2018.

dharamvir/dinesh

Whether speaking/reasoned	: YES/NO
Whether Reportable	: YES/NO