

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6964 of 2014 (O&M)
Date of Order: 21.02.2018

Vishnu Sarup

..Petitioner

Versus

Kishan Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Chawla, Advocate,
for the petitioner.

Mr. R.S.Chauhan, Advocate
for respondent no.13.

ANIL KSHETARPAL, J (Oral)

Decree Holder-petitioner is in revision petition against the order dated 27.03.2014, dismissing the execution petition as satisfied after delivering symbolic possession of the shop in dispute.

Petitioner-Decree Holder filed a suit for possession by way of specific performance of the agreement to sell dated 28.02.1995. Head note of the plaint reads as under:-

Suit for possession by way of Specific Performance in terms of the agreement dated 28.2.1995 by which the deferdant agreed to sell the shop marked by letters ABCD in red colour in the site plan attached and bounded by:-

North : House of Kasturi Lal

South : Bazar Link Road

East : Khola of Bua Ditta Mal now site of

of shop of Kasturi Lal.

West : Gali

Situated at main Road Begowal Taragarh Tehsil Pathankot, Distt. Gurdaspur and in the alternative suit for a recovery of Rs.85,000/- along with penalty and interest at the rate of 18 percent PA from the date of filing of the suit till realization.

The aforesaid suit was decreed on 20.09.1997. Although, it appears that while passing decree, relief of possession was not incorporated, although it was mentioned that the suit of the plaintiff is decreed. But anyhow, for the purpose of decision of the revision petition, that issue does not arise.

Learned Executing Court issued warrants of possession. There was some dispute about identity of the property, subject matter of the suit. Plaintiff resisted delivery of actual possession as the possession whereof sought to be delivered was different than what was decreed in his favour. Learned Court appears to have taken the stand of the decree holder as offending and dismissed the execution petition. The courts are not required to take anything personally but decide the case in accordance with law. The decree holder who had started litigation in the year 1995 is still waiting to enjoy the fruits of his decree. It is not in dispute that the sale deed has already been executed in favour of the decree holder.

Keeping in view these facts, the order under challenge is set aside. The Executing Court is requested to re-decide the execution petition preferably within two months from the date of receipt of a certified copy of this order.

The revision petition is allowed.

February 21, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No