

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.69 of 2018(O&M)

Date of Decision: 14.02.2018

Balwinder Singh & ors.

... Petitioners

Versus

Jaswant Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Inderjit Sharma, Advocate,
for the petitioners.

Mr. Dheeraj Mahajan, Advocate,
for the respondent.

RAMENDRA JAIN, J.(Oral)

C.M. No.2416-CII of 2018

Through the instant application, the petitioners want to place on record their affidavits [Annexure P-9 (colly) and P-10] in compliance of the order dated 10.01.2018.

The same are taken on record and be tagged at appropriate place.

Application stands disposed of.

CR No.69 of 2018(O&M)

Notice of motion.

Mr. Dheeraj Mahajan, Advocate, accepts notice on behalf of the respondent and has filed his Vakalatnama. The same is taken on record and be tagged at appropriate place.

Learned counsel for the petitioners-defendant contends that the petitioners were ready to execute sale deed in favour of respondent-plaintiff. Therefore, the trial Court ought not to have passed the impugned order dated 07.09.2017 (Annexure P-7) refusing to direct the respondent-plaintiff to get the sale deed executed in their favour without leading evidence.

On the other hand, learned counsel for the respondent-plaintiff contends that since on the date fixed for execution of the sale deed i.e. 30.05.2014, the suit property was mortgaged, therefore, now the petitioners-defendant cannot be forced the respondent-plaintiff to get executed and registered the sale deed. In view of above factual position, the respondent-plaintiff has restricted his claim to the extent of recovery of the earnest money.

Heard.

I have given thoughtful consideration to the submissions made by both sides.

Admittedly, on the date fixed for execution of sale deed i.e. 30.05.2014, the suit property was mortgaged by the petitioners-defendant. According to the impugned order, the suit property was redeemed by the petitioners-defendant from the HDFC Bank on 28.07.2014 and 30.05.2016, after the expiry of the aforesaid date. Therefore, no fault lies with the respondent-plaintiff for non-execution of the sale deed on the date fixed i.e. 30.05.2014.

It is debatable as to which of the party was at fault for non-execution of the sale deed on the aforesaid stipulated date. Therefore, the trial Court has rightly observed that the same cannot be decided without taking evidence from both the sides.

In view of above, the instant petition is completely devoid of any merit and the same is dismissed.

14.02.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No