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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-769-2018

Date of decision : 05.02.2018

Naresh Kumar

... Petitioner(s)

Versus

Dalbir Singh (deceased through LRs)

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Upender Prasher, Advocate
for the petitioner(s).

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the order dated 05.01.2018 (Annexure P-1), whereby an application moved by the respondent-defendant under order 7 Rule 11 CPC calling upon the petitioner-plaintiff to pay the *ad valorem* court fee on the amount of ₹28,00,000/-, has been allowed.

Learned counsel appearing on behalf of the petitioner-plaintiff submits that the plaintiff instituted the suit claiming declaration and permanent injunction as consequential relief in the following manner:-

"It is therefore prayed that in view of the aforesaid facts a decree for declaration to the effect that the earnest money to the tune of ₹28,00,000/- (₹Twenty eight lacs only) paid by the defendant to the plaintiff in view of the agreement to sell dated 06.02.2015 stands forfeited and agreement to sell dated 06.02.2015 cancelled due to the failure of the defendant in not performing his part of the contract and permanent injunction

as consequential relief restraining the defendant for ever from using coercive, illegal and forcible methods of pressurizing the plaintiff to recover the amount of the said earnest money to the defendant in any manner be please passed with costs in favour of the plaintiff and against the defendant. Any other relief to which the plaintiff is found entitled to may also be granted to him.”

In fact the plaintiff is the owner in possession of the land and vide agreement to sell dated 06.02.2015, the plaintiff had agreed to sell the land to the defendant @ ₹31,00,250/- per acre as per the terms and conditions of the agreement to sell. The plaintiff had always been ready and willing to perform his part of the agreement and even, reached the office of the Sub-Registrar, Pundri and remained present there from 09.00 am to 05.00 p.m., on the target date i.e. 28.05.2015. Even one more opportunity was also granted to the defendant to perform his part of the agreement by serving the legal notice dated 23.07.2015, but he did not come forward and as such, earnest money of ₹20 Lacs received in view of the agreement to sell stood forfeited and agreement to sell was also cancelled. In support of his contentions, he relies upon the *ratio decidendi* culled out by this Court in **“Tarun Kumar V/s Pankaj Kapoor” (2016) 5 RCR (Civil) 296**, thus, urges this Court for setting aside the order, under challenge as except declaration, no cancellation of the document has been sought.

I have heard the learned counsel for the petitioner-plaintiff and appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Prasher, for, the plaintiff in the aforementioned pending suit has sought two reliefs; i) for declaration of the agreement to sell of having forfeited the amount of the earnest money and ii) cancellation

thereof. Admittedly he had received the earnest money of ₹28 lacs and for that he has to pay the court fee in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court in “Suhrid Singh @ Sardool Singh V/s Randhir Singh and others” AIR 2010 SC 2807.

Keeping in view the aforementioned facts, the impugned order does not suffer from any illegality, much less, perversity and cannot be said to be passed without jurisdiction. Resultantly, the present revision petition is dismissed.

05.02.2018	(AMIT RAWAL)
Yogesh Sharma	JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No