

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 104

Case No. : C. R. No. 3934 of 2018 (O&M)

Date of Decision : January 17, 2019

Manohar Lal

.... Petitioner

vs.

Satish Kumar and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.**

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Present : Mr. Deepak Arora-I, Advocate  
for the petitioner.

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**DEEPAK SIBAL, J. (Oral) :**

The present petition is directed against the order dated 07.04.2018 passed by the Civil Judge (Junior Division), Ludhiana (for short – the Trial Court) dismissing the application filed by the petitioner seeking therein to adjourn his suit *sine die* to await the final decision in the dispute between respondent no.1 and his wife Saroj Kalia with regard to the possession of the house which is the subject matter of the petitioner's suit.

The facts, in brief, which are required to be noticed for adjudicating upon the present revision petition are that the petitioner filed a suit seeking therein specific performance of agreement to sell dated 21.06.2014 pertaining to a house measuring 81 sq. yards bearing Plot No. B-1-683 in Khasra No. 4539/886 to 889-2349/891-893 – 2350/891-893 out of Khata No. 2161/2598 in Village Mahal Bagaat, Hadbast No. 164, Tehsil

Ludhiana (East), District Ludhiana (for short – the suit property). In the alternative, the petitioner seeks recovery of Rs. 50 lakhs from respondent no. 1 which includes earnest money of Rs. 15 lakhs paid by the petitioner to respondent no. 1 and Rs. 35 lakhs as damages. Interest is also claimed. The petitioner has further sought a declaration to the effect that gift deed dated 14.11.2014 executed by respondent no. 1 in favour of respondent no. 3 is null and void or at least not binding on the rights of the petitioner. Respondents no. 1 and 3 are further sought to be enjoined from alienating or transferring the suit property.

On being put to notice, respondent no. 1 filed a written statement, through which not only was the petitioner's claim refuted but it was also submitted that the petitioner had defaulted in getting the sale deed registered. Therefore, the petitioner was not entitled to any relief and it was respondent no. 1, who was entitled to forfeit the earnest money paid by the petitioner to him.

Respondent no. 1 had also filed an independent suit wherein he had sought cancellation of the aforesaid agreement dated 21.06.2014. He had further claimed that on account of the default by the petitioner, his earnest money stood forfeited. Injunction to restrain the petitioner from dispossessing respondent no. 1 from the suit property was also claimed. Such suit has been tagged with the petitioner's suit.

The wife of respondent no. 1 namely Saroj Kalia had also filed proceedings against respondent no. 1 under the Domestic Violence Act, 2005 (for short – the Act). In such proceedings, a restraint order had been

passed against dispossession of Saroj Kalia from the suit property against which, respondent no.1 has filed an appeal, which is still pending. In view of the afore-referred dispute between respondent no. 1 and his wife with regard to the possession of the suit property, the petitioner filed an application seeking his suit to be adjourned *sine die* to await the final decision in the litigation pending between respondent no.1 and his wife. The Trial Court rejected the petitioner's application giving him a cause to knock the doors of this Court through the present petition.

Learned counsel for the petitioner has been heard.

The petitioner seeks his suit to be adjourned *sine die* to await the conclusion of proceedings between respondent no. 1 and his wife Saroj Kalia, which proceedings have been initiated by Saroj Kalia against respondent no. 1 under the Act seeking therein possession of the suit property due to marital discord between them, in which proceedings a restraint order has been passed against dispossession of Saroj Kalia from the suit property. Against such restraint order, respondent no. 1 has filed an appeal which is pending. Even if such proceedings are pending, there is no occasion for adjourning the petitioner's suit *sine die* as both these proceedings are distinct. Further, in his suit, the petitioner has not only sought specific performance of the agreement between him and respondent no. 1 but in the alternative, has also sought recovery of the earnest money paid by him to respondent no. 1 as also damages along with interest thereon. Thus, in the eventuality that the petitioner's pleas are accepted and he is held entitled to relief but in view of a final order in the proceedings under the

Act in favour of respondent no. 1's wife Saroj Kalia, he cannot be granted the primary relief of possession of the suit property, even then the petitioner's suit qua his alternate prayer would survive.

In view of the above, no error is found in the order impugned in the present proceedings.

Dismissed.

( DEEPAK SIBAL )  
JUDGE

January 17, 2019  
*monika*

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|------------------------------------|----------------|
| <i>Whether speaking/reasoned ?</i> | <i>Yes/No.</i> |
| <i>Whether reportable ?</i>        | <i>Yes/No.</i> |