

CR-4850-2016 (O&M)

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

CR-4850-2016 (O&M)

Date of decision : 24.01.2019

Jangir Singh (deceased) through LRs

... Petitioner

Versus

Raj Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. H.S. Dhaliwal, Advocate
for the petitioner.

Mr. Peeush Gagneja, Advocate and
Ms. Navsangeet, Advocate for
Mr. Manu Loona, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 25.05.2016, whereby an application of the petitioner-judgment debtor for dismissal of the execution application, on the basis of the compromise, has been dismissed.

The plaintiff instituted the suit for specific performance of the agreement to sell dated 24.06.2000, which was decreed by the trial Court vide judgment and decree dated 26.03.2010, whereby the alternative relief was granted.

Learned counsel for the petitioner submitted that the petitioner-judgment debtor entered into a compromise dated 30.08.2014 with the respondent-decree holder. The trial Court should not have dismissed the

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application summarily as the decree holder allegedly and *malafidely* denied his signatures.

Learned counsel for the respondent submitted that in view of the denial, the application was not maintainable as the plaintiff had to obtain the receipt and show to the Court regarding the payment.

I have heard learned counsel for the parties, appraised the paper book and of the view that the provisions of Rule 2 of Order 21 of the Code of Civil Procedure does not debar the judgment debtor to enter into a compromise or making the payment outside the Court to the decree holder. No doubt the respondent-decree holder had denied his signatures. In such circumstances, the trial Court should not have dismissed the application summarily, but given the opportunity to the petitioner and the respondents to prove the thumb-impressions or his signatures as well as the witnesses, Sucha Singh and Khan Singh. The impugned order lacks compliance of the aforementioned requirement of law, thus, suffers from illegality and perversity. The same is hereby set aside. The trial Court is directed to decide the application submitted by the petitioner-judgment debtor in terms of the observations made hereinabove, as expeditiously as possible.

The present revision petition stands allowed.

24.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**