

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.1234 of 2019 (O&M)
Date of Decision.21.02.2019

Prem Singh

...Petitioner

Vs

Avtar Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ankur Bansal, Advocate
for the petitioner.

:-

AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order whereby objections of the petitioner-judgment debtor against the execution application seeking execution of the judgment and decree dated 25.02.2012 passed in suit for specific performance of agreement to sell dated 16.01.2006 has been dismissed.

Mr. Ankur Bansal, leaned counsel appearing on behalf of the petitioner-defendant/judgment debtor submits that the respondent-plaintiff had obtained the ex parte judgment and decree as petitioner is NRI on acquiring knowledge filed the objection petition, as the execution application was filed on 27.04.2012 by taking numerous objection including the fact that decree had become inexecutable as one month's time for depositing balance sale consideration lapsed on 24.03.2012 whereas it was deposited on 27.03.2012. In such circumstances, the objections ought not to have been rejected summarily as issues were required to be framed.

I am afraid aforementioned argument is not sustainable,
as the petitioner has independent remedy to move application for

rescission of the contract as per the provisions of Section 28 of the Specific Relief Act along with application for interim stay. There is separate procedure prescribed but not in the manner and mode as indicated above.

With the aforementioned observations, while upholding the order under challenge, revision petition stands disposed of. If such application is filed before the dated fixed in the trial court, it would not preclude the trial Court to consider the application in accordance with law.

(AMIT RAWAL)
JUDGE

February 21 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No