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

SAO No.34 of 2017 (O&M)
Date of Decision: 04.07.2019

Sunil Singh

...Appellant

Versus

Mr. Paramveer Sachdeva and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Gagan Chhabra, Advocate, for the appellant.
Mr. Aashish Chopra, Advocate,
and Mr. Karan Gulati, Advocate, for the respondents.

RAMENDRA JAIN, J. (ORAL)

By way of this appeal, appellant-defendant has laid challenge to judgment dated 25.01.2017 of the First Appellate Court, whereby case has been remanded to the trial Court by setting aside its judgment and decree dated 07.08.2015.

Learned counsel for the appellant has raised following two objections against deposit of balance sale consideration by the respondents in compliance of order dated 09.04.2019 of a Co-ordinate Bench: -

(i) Demand draft bearing No.514636 dated 24.05.2019 for ₹1,44,67,500/- is overwritten/defective as there is some overwriting in the name of the appellant.

(ii) Respondents were not liable to deduct 1% in view of order dated 09.04.2019 towards TDS.

Contrary to it, learned counsel for the respondents has submitted that to satisfy appellant and the executing Court, respondents have obtained a certificate from the Senior Branch Manager of the bank which has issued aforesaid demand draft bearing No.514636 dated 24.05.2019 for ₹1,44,67,500/-, endorsing its correctness and genuineness and further certifying that the same on presentation would be encashed. 1% TDS deducted from the balance sale consideration is a legal requirement under Section 194 IA of the Income Tax Act. Therefore, amount of ₹3,25,000/- has rightly been deducted @ 1% towards TDS of the total sale consideration.

Having given thoughtful consideration to the rival submissions, conduct of the appellant appears to be mala fide in not accepting the demand drafts. Entire balance sale consideration has been deposited by the respondents in the name of appellant by way of two demand drafts along with interest as directed vide order dated 09.04.2019. That apart, respondents also produced a certificate of the issuing branch of the aforesaid demand draft that the same would be encashed on presentation. Therefore, no ambiguity left with the executing Court or the appellant for not accepting the demand draft deposited by the respondents before the executing Court.

As far as deduction of 1% TDS is concerned, same has also rightly been deducted by the respondents in view of Section 194 IA of the Income Tax Act. The same, by any stretch of imagination, cannot be termed as miscellaneous expenses.

In view of above, appellant is directed to execute and get the sale deed registered in favour of respondents-decree-holder or their nominee as per their choice within two weeks from today, failing which executing Court would adopt all modes, including coercive to get the sale deed executed and deliver possession in favour of respondents-decree-holder or their nominee, if any. In case, any of the four demand drafts produced by the decree-holder in Court is not encashed, in that eventuality, executing Court would charge interest from respondents-decree-holder and their nominee/beneficiary at the rate of 18% per annum for the defaulted period w.e.f. 10.05.2019.

Since respondents-decree-holder have apprehension that to scuttle the decree, appellant may tamper with the demand drafts before their presentation, therefore, in the interest of justice, executing Court is directed to deposit the same directly in the bank account of the appellant, so as to avoid any further complication.

Disposed of accordingly.

(RAMENDRA JAIN)
JUDGE

July 04, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No