

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

Sr. No.248

CR-11695-2018

Date of decision: 22.02.2019

Balwinder Singh and others

....Petitioners

versus

Kewal Krishan and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Mohit Jaggi, Advocate
for the petitioners.

Mr. Harminder Singh, Advocate
for respondents No.1 and 2.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 17.11.2018 passed by the Additional District Judge, Sangrur (for short – the Appellate Court) through which the petitioners' application for acceptance of the cross-objections filed by the respondents and resultantly for decreeing their suit has been adjourned to be heard on merits. It is further prayed that the Appellate Court be directed to consider and decide the petitioners' aforesaid application in a date bound manner.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondents filed a suit seeking therein specific performance of agreement to sell dated 05.07.2008. In the alternative recovery of Rs.60 lakhs, which included earnest money and liquidated damages, alongwith interest was sought. On being put to notice, the petitioners, who were the defendants in the suit, appeared before the Trial Court and contested the suit. The Trial Court after sifting the

evidence led by both parties, through judgment and decree dated 20.09.2016 decreed the respondents' suit to the extent of granting them the right to recover from the petitioners an amount of Rs.30 lakhs alongwith interest. Against such judgment and decree passed by the Trial Court, the petitioners filed an appeal before the Appellate Court in which the respondents filed their cross-objections. While both the aforesaid appeal and the cross-objections were pending, the petitioners filed an application through which they prayed that the respondents' cross-objections be allowed resulting in the respondents' suit being decreed. The respondents filed a reply to the aforesaid application filed by the petitioners inter alia raising doubts with regard to the intention of the petitioners as also with regard to availability of the land as per the agreement in question. The Appellate Court through order dated 17.11.2018 kept the petitioners' aforesaid application pending and directed that the same shall be taken up with the main appeal filed by them as also the respondents' cross-objections. Such order is under challenge in the present proceedings.

A perusal of the afore-referred facts as also the order impugned in the present proceedings reveals that the Appellate Court has merely directed that the petitioners' application shall be decided alongwith their appeal as also the respondents' cross-objections filed by the parties against the judgment and decree of the Trial Court dated 20.09.2016. Though at first blush, an impression is created that the offer made by the petitioners to allow the respondents' cross-objections can and should be allowed without any delay but when the reply filed by the respondents to the petitioners' application is perused, it is found that the respondents sense that even if their cross-objections are allowed, it would be impossible to execute such

decree as according to them the land covered under the agreement in question is not available.

In the light of these facts, no error is found in the observations made by the Appellate Court that the petitioners' application would be considered and decided alongwith their appeal and the cross-objections filed by the respondents against the judgment and decree dated 20.09.2016 passed by the Trial Court.

However, once an offer has been made by the petitioners to decree the respondents' suit, such offer alongwith their appeal and the cross-objections should be considered and disposed of expeditiously. Accordingly, the Appellate Court is directed to decide the entire matter pending before it within two months from the date of receipt of a certified copy of this order.

The present petition is disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

February 22, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No