

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3362 of 2018(O&M)
Date of Decision: 28.02.2019

Reena and others

.....Petitioners

Versus

Mahesh Talwar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ravi K. Mattoo Advocate
for the petitioners

Mr. R.S. Chauhan, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(Oral)

[1]. In a suit for specific performance, trial Court decreed the suit. Defendants/petitioners remained unsuccessful before the Lower Appellate Court. RSA No.1569 of 2006 was filed by the petitioners. Conditional notice of motion was issued on 05.05.2006. Petitioners failed to deposit the required amount of Rs.1.5 lacs within a period of four weeks and the order staying the operation of the impugned judgment and decree could not come into effect. The appeal was admitted.

[2]. During main proceedings, the objection with regard to

only residential house protected in terms of Section 60(1)(ccc) CPC was negated by the Courts below. In the execution, the same objection was taken and the executing Court dismissed the same. The first execution appeal filed by the petitioners was delayed and the application under Section 5 of the Limitation Act was dismissed by the First Execution Appellate Court and as a consequence of that, the appeal was also dismissed.

[3]. Perusal of the grounds of the revision petition would show that the petitioners have concealed the material information with regard to grant of interim order in RSA No.1569 of 2006 and the same was not complied with by the petitioners.

[4]. Even otherwise, in view of ratio laid down in **Bikram Singh Vs. Surjit Singh and others, 2004(4) RCR (Civil) 422, Mahender Kumar Vs. Mangal Singh, 2013(4) RCR (Civil) 342** and **Sheela Rani Vs. Punjab and Sind Bank Ltd., 1994(1) 583**, what is exempted under Section 60(1)(ccc) CPC is the sale and attachment of a residential house. The aforesaid proposition is not attracted in a suit for specific performance. Even on facts, this Court is not inclined to grant any indulgence in favour of the petitioners who have concealed the material information from the Court.

[5]. Learned counsel for respondent No.1 stated that the sale deed has already been executed with the process of the

Court on 16.03.2009.

[6]. Faced with this situation, learned counsel for the petitioners wishes to withdraw the present revision petition.

[7]. Dismissed as withdrawn.

28.02.2019

(RAJ MOHAN SINGH)
JUDGE

Prince

Whether reasoned/speaking

Whether reportable

Yes/No

Yes/No