

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2717-2020(O&M)
Date of decision: 23.12.2020

Kanha Ram

.....Petitioner

Versus

Mahabir

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.P.K.Ganga, Advocate for the petitioner

ANIL KSHETARPAL, J. (ORAL)

The judgment debtor has filed this revision petition under Article 227 of the Constitution of India seeking setting aside of the order dated 17.12.2020 passed by the executing court while dismissing his objection petition. .

The respondent-decree holder had filed a suit for specific performance of the agreement to sell. Learned Trial Court granted alternative relief of refund of the earnest money. However, learned First Appellate Court vide judgment dated 05.12.2013 decreed the suit and granted a conditional decree of Specific Performance of the agreement to sell subject to deposit of balance sale consideration within a period of three months.. The judgment debtor, before expiry of three months, filed a regular second appeal and was successful in getting an injunction vide order dated 10.02.2014. It may be noted here that the decree holder did file an execution petition in January, 2014, however, in view of the stay granted by the High Court, the proceedings were kept in abeyance. The Regular Second Appeal filed by the judgment debtor came to be dismissed on 08.11.2019. A copy thereof, was received by the Trial Court on 18.01.2020. However, before the expiry of three months

limitation period, lockdown was ordered due to spread of COVID-19 pandemic. Therefore, the execution petition also remained pending. The decree holder deposited the amount on 17.07.2020, immediately, on partial re-opening of the Courts after summer vacations.

Learned counsel, for the petitioner, contends that the decree holder failed to deposit the amount within the time prescribed and therefore, learned Trial Court erred in dismissing the objections.

This Court has considered the submission. It is not in dispute that due to the spread of COVID-19 pandemic from 3rd week of March, 2020, the entire country was put under a lockdown. Even normal working of the Courts was hampered. Hon'ble Supreme Court has already passed orders extending the period wherever prescribed, due to extraordinary situation.

Keeping in view the aforesaid facts, it is not possible to hold that the decree holder intentionally failed to deposit the amount within the time prescribed particular when he had already filed the execution petition before filing of the Regular Second Appeal. In such a situation, he cannot be blamed for the delay. The delay occurred on account of certain exigencies, which were beyond the control of the parties.

Learned Executing Court has already appreciated these facts and ordered the dismissal of the objections filed by the petitioner.

Hence, no ground to interfere. Dismissed.

23.12.2020

rekha

Whether speaking/reasoned

Whether Reportable

Yes / No

Yes / No

(ANIL KSHETARPAL)
JUDGE