

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

CR-7472-2019 (O&M)
Date of decision : 06.01.2020

Satpal

...Petitioner

Versus

Jagdeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Monika Tanwar, Advocate for the petitioner.

Mr. Namit Khurana, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Petitioner has filed the present revision petition against the order passed by the learned First Appellate Court dismissing the application for condoning the delay of about 10 months in filing the first appeal.

Respondent had filed a suit for possession by way of specific performance of the agreement to sell dated 22.05.2010 executed by the defendant-petitioner with respect to land measuring 16 kanals 4 marlas being half share of land measuring 32 kanals 8 marlas on receipt of earnest money of ₹18,00,000/- against the receipt.

The defendant-petitioner contested the suit by filing a detailed written statement. On appreciation of evidence, learned trial Court vide judgment dated 29.03.2014, granted the decree for possession by way of specific performance of the agreement to sell. Appellant filed the first

appeal through his son alongwith an application for seeking condonation of delay of approximately 10 months on the ground that the petitioner-defendant was suffering from a mental disorder and is of unsound mind.

Learned First Appellate Court, on appreciation of material on record, found that the petitioner has failed to even prima facie establish that he is suffering from mental disorder or is of unsound mind. The Court has also noticed that the petitioner had himself filed written statement before the trial Court and had appeared in evidence and faced the cross-examination. The Court further found that prima facie material to prove that petitioner suffers from mental disorder does not find corroboration.

The petitioner in order to establish his case has produced photocopy of the medical certificate issued by the Doon Hospital, Dehradun. The petitioner is resident of Village Mamli, District Yamuna Nagar, Haryana. This medical certificate shows that the petitioner was admitted for some psychiatric problem (without specifying the same) on 25.03.2010 to 28.03.2010 (for 4 days only). Thereafter, there are certain prescription slips issued by the Mangla Neuro Psychiatric Centre which also does not show any serious problem. These prescription slips are w.e.f. 18.04.2010 going upto 02.09.2014.

The First Appellate Court has also found that son of the petitioner use to accompany the petitioner when they were defending the suit in the trial Court which was decreed in favour of the plaintiff.

Sale deed pursuant to the agreement to sell has already been executed.

In view thereof, this Court finds that the petitioner has failed to

explain huge delay of about 10 months in filing the appeal. Hence, there is no ground to interfere.

Accordingly, the present revision petition is dismissed.

Learned counsel for the petitioner has submitted that inadvertently the appellant had filed a Regular Second Appeal by affixing the ad valorem Court fee, although only the revision was maintainable. She prays that the aforesaid Court fee be ordered to be refunded. Learned counsel for the respondent has no objection.

Keeping in view the aforesaid fact, the petitioner would be entitled to apply for refund of the Court fee in accordance with established procedure which shall be refunded to him in accordance with law as no ad valorem Court fee is payable on revision.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

06.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No