

S.No.201

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

CR No.254 of 2020 (O&M)

Date of Decision:19.02.2021

Paramjit Kaur

.....Petitioner

Vs.

Sant Ram and another

.....Respondents

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IN VIRTUAL COURT

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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Vineet Chaudhary, Advocate for the petitioner.

Mr. S.S. Sishodia, Advocate for respondent No.1.

Rajbir Sehrawat, J.(Oral)

This is a petition filed under Article 227 of the Constitution of India challenging the order dated 18.10.2019 (Annexure P.9) passed by Additional Civil Judge (Senior Division), Naranigarh, District Ambala vide which an application; under Section 148 read with Section 151 CPC and Section 28 of the Specific Relief Act; for extension of time to deposit the balance sale consideration, as was required in the decree passed in favour of the applicant; has been allowed and the respondent has been permitted to deposit the balance of the sale consideration.

The brief facts as involved in this petition are that the respondent No.1 had filed a suit for possession by way of specific performance of the agreement dated 03.01.2014. The said suit of the respondent was decreed against the present petitioner vide the judgment and decree dated 20.04.2019. As per the decree, the sale deed was to be executed by the petitioner/judgment-debtor in favour of the respondent/

decree-holder within a period of two months on deposit of the balance sale consideration of Rs.1 lakh within a period of 30 days from the date of judgment and decree dated 20.04.2019. The respondent moved the necessary application for permission to deposit the said amount on 18.05.2019. That application was entertained by the Executing Court on 21.05.2019 and report was sought by 31.05.2019 and even the online challan was generated for deposit of the money. However, an incorrect version of the order of the Executing Court was uploaded on the website of the Executing Court due to mistake of the Court official. That incorrect order which contained no permission to deposit; continued for quite long time. Ultimately, that order was corrected and the corrected version of the order was uploaded on 01.06.2019. Thereafter, the respondent had moved another application in continuation of the same process. However, that application was withdrawn by the respondent on 16.09.2019; and vide the same order dated 16.09.2019, the Executing Court had granted liberty to the petitioner to file fresh application. Accordingly, on the next day, the respondent filed the application for deposit of the money which has been allowed by the Executing Court vide the impugned order. Now the respondent has even deposited the amount pursuant to the permission granted by the Executing Court.

While arguing the case, learned counsel for the petitioner has submitted that since the respondent/ decree-holder was required to deposit the money within a period of 30 days from the date of judgment and decree and the same was not deposited by him, therefore, the Executing Court could not have granted him permission to deposit the money after such a

long time. It is further submitted by counsel for the petitioner that even if the incorrect version of the order of the Executing Court was uploaded on website on 21.05.2019, then also, as per the pleadings of the respondent-decree-holder, only; he had visited the Court on 28.05.2019. Therefore, he should have deposited the amount on or before 31.05.2019, as recorded in the corrected version of the order. It is further submitted that by any means, the application is allowed after an inordinate delay. Hence, the order passed by the trial Court is totally illegal.

On the other hand, counsel for the respondent-decree holder has submitted that in the first instance, the respondent- decree holder had moved the application well within 30 days' duration. The respondent was ready with the money and even the online challan was generated. However, the Court official uploaded an incorrect order, which contained no permission for deposit of the money. Therefore, the requisite money could not be deposited by the respondent- decree holder. It is also submitted by the counsel that although the respondent visited the Court regarding deposit of the money on 28.05.2019, however, even upto that date, the correct version of the order was not uploaded. The respondent had taken the print out of the order uploaded on the website on 01.06.2019 at 04:07 P.M. Upto that time also, the incorrect version of the order only was on the website. Ultimately, when the Court has granted the necessary permission to the respondent by allowing his application, the money has been deposited immediately. Hence, there is not fault on the part of the respondent- decree holder.

Having heard the counsel for the parties, this Court does not

find any substance in the argument raised by counsel for the petitioner. Even the bare perusal of the impugned order passed by the Executing Court and of the previous order on the website of the Executing Court; would show that there was a mistake by the Court official in uploading the order on the website of that Court. This has even been admitted by the Court official, as is recorded in the impugned order. It is not even disputed that; in the first instance, the respondent- decree holder had moved the necessary application for deposit of the money on 18.05.2019, which is well within the original time limit prescribed in the decree. He could not deposit the money within the originally prescribed time of 30 days because of the mistake of the Court official. Hence, by any means, the respondent could not have been prejudiced in his rights on account of the mistake of the Court official. Hence, the Executing Court has rightly granted the permission to the respondent to deposit the balance sale consideration.

Although the counsel for the petitioner has submitted that the respondent visited the Court premises on 28.05.2019, therefore, he could have deposited the money on or before 31.05.2019, as is recorded in the corrected version of the order of the Executing Court, however, this Court does not find substance even in this argument. The respondent- decree holder has produced before this Court, the print out taken by him on 01.06.2019 at 04:07 PM which shows that even on 01.06.2019, the incorrect version of the order of the Executing Court was existing on the website of that Court. Therefore, there was no reason or occasion for the respondent- decree holder to deposit the money upto 31.05.2019. Thereafter, although the respondent had withdrawn his earlier application on 16.09.2019,

however, while he was permitted to withdraw the said application because of the technical fault, the Executing Court had granted a liberty to the respondent to move fresh application. The respondent moved the fresh application on the very next day, i.e. on 17.09.2019. Therefore, even on this count, the respondent cannot be held liable for any delay on his part; qua his effort to deposit the money. Undisputedly, the money now stands deposited as per the permission granted by the Executing Court vide the impugned order.

In view of the above, this Court does not find any illegality or impropriety with the order passed by the Executing Court.

Accordingly, finding no merit in the present petition, the same is dismissed.

February 19, 2021
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No