

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 3677 of 2018**

**Date of Decision: 27.09.2022**

Darbara Singh

... Petitioner(s)

Versus

Tirath Singh

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Varun Jain and Mr. Arun Jindal, Advocates  
for the petitioner(s).

Mr. Janak Singh Bhinder, Advocate  
for the respondent.

**Anil Kshetarpal, J.**

1. A conditional decree for relief by way of specific performance of the agreement to sell dated 02.06.2005 was passed by the trial Court in favour of the respondent on 20.04.2010. The operative part of the *ex parte* judgment reads as under:-

*“In view of the above discussion, the plaintiff is entitled to the relief of possession by way of specific performance of the agreement to sell dated 02.06.2005. The plaintiff is directed to tender the balance sale consideration to the defendant within a period of one month from today and the defendant is directed to receive the same and execute the sale deed in favour of the plaintiff within 15 days from the receipt of balance sale consideration, failing which the plaintiff would be entitled to get the sale deed executed in his favour through the process of the Court after depositing the said amount in the Court. The*

*suit of the plaintiff is decreed ex parte accordingly. Decree be prepared accordingly and file be consigned to the record room.”*

2. The respondent (decree holder) has filed an execution petition somewhere in the year 2014, whereas, he deposited the balance sale consideration as ordered by the Court below, in the year 2017. The Executing Court, without noticing as to when the amount was deposited by the decree holder, has dismissed the objection petition filed by the judgment debtor against which this revision petition has been filed.

3. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

4. The learned counsel representing the petitioner, while reiterating the facts, as already noticed, submits that the respondent has failed to fulfill the parameters of a conditional decree. Hence, the Court below erred in dismissing the objection petition filed by the judgment debtor.

5. On the other hand, the learned counsel representing the respondent (decree holder) submits that pursuant to the order passed by the Executing Court on 11.05.2018, the sale deed has already been executed and registered in favour of the decree holder.

6. Before this Court, two facts are not disputed. Firstly, a conditional decree was passed on 20.04.2010. secondly, an application for execution of the decree was filed in the year 2014, whereas, the amount was deposited on 07.08.2017. There is no explanation or justification for the delay of seven years in depositing the amount. The operative part of the

a general rule is required to tender the balance sale consideration to the judgment debtor within a period of one month from the date of judgment. However, if the defendant does not accept the payment and execute the sale deed, the decree holder is required to deposit the amount in the Court in order to get the sale deed executed and registered. Unless the decree holder fulfills the condition, he cannot pray for its execution. In the present case, the decree holder has failed to fulfill the aforesaid condition. The Executing Court has not adverted to the aforesaid facts in the correct perspective. In the impugned order, the Court below has not recorded any reason as to why the objection petition, filed by the judgment debtor, is being dismissed. The Court below has only noticed that the amount of sale consideration has already been deposited by the decree holder. In the considered view of this Court, the Executing Court should have been conscious of the date on which the said amount was deposited. However, the Executing Court has miserably failed in consciously taking note of the facts and circumstances of the case.

7. Since no explanation whatsoever has been furnished for the delay of six/seven years in depositing the amount of sale consideration, this Court is left with no choice but for to accept the revision petition while allowing the objection petition filed by the judgment debtor. The execution petition filed by the petitioner shall stand dismissed. The sale deed, if any executed in execution of the decree shall stand nullified.

**(Anil Kshetarpal)**  
**Judge**

**September 27, 2022**

**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No