

**111-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-4939-2018 (O&M)

Date of decision: 12.05.2022

Mohd. Hanif (since deceased) through his L.Rs

...Petitioners

Versus

Surinderjeet Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jai Bhagwan, Advocate for the petitioners

Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Shazia K Singh, Advocate for
respondent no.1 and 2

ANIL KSHETARPAL, J (Oral)

The trial court, after recording a finding that defendant no.7 and 8 did not reside at the given address, in the suit, has set aside the ex parte decree for possession by way of specific performance of the agreement to sell, with a consequential relief of permanent injunction.

This Court has heard the learned counsel representing the parties at length. No doubt, defendant no.7 and 8 are the sisters of defendant no.1 and sisters-in-law of defendant no.2. From a bare look at the judgment passed, it is evident that defendant no.1 admitted the execution of the agreement to sell as well as receipt of the earnest money. He further admitted supplementary agreement extending the time for performance of the alleged agreement to sell. At the time when the agreement to sell was executed, predecessor-in-interest of the parties

Late Sh. Kehar Singh was the owner. Mohinder Singh, on the basis

of General Power of Attorney of Kehar Singh, executed the agreement to sell.

The learned trial court has already recorded sufficient reasons to set aside the ex parte decree while directing the conclusion of the trial expeditiously.

While hearing the revision petition under Article 227 of the Constitution of India, the High Court is not expected to interfere in each and every case. Even though the High Court has sufficient jurisdiction in such cases, still, such kind of jurisdiction is required to be exercised only in the interest of justice. The High Court is expected to interfere only when the order under challenge suffers from the material irregularity or perversity which goes to the root of the matter.

Keeping in view the aforesaid well settled principles of law, this Court is of the considered view that the ends of justice would be met if the trial court is directed to re-decide the suit within a period of three months while granting only two effective opportunities to defendant no.7 and 8 to lead evidence. They shall also be granted one opportunity to cross-examine the witness already produced by the plaintiff. It shall be the responsibility of the plaintiff to produce those witnesses. The Presiding Judge of the trial court will ensure that no unnecessary adjournment is granted and sincere endeavours are being made to decide the suit within the time aforesaid. This Court has been informed that the next date fixed before the trial court is 15.07.2022.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

12.05.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE