109 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-6789-2016(O&M)
Date of decision: 18.08.2022

Jaspal Singh

....Petitioner

Versus

Shisha Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Ramandeep, Advocate for the petitioner

Mr. Rajinder Sharma, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

The petitioner herein is a decree-holder. There is a decree for possession by way of specific possession of the agreement to sell in favour of the petitioner. The petitioner was in fact a defendant in a suit for grant of decree of permanent injunction wherein he filed a counter claim for grant of decree of specific performance of the agreement to sell. The operative part of the decree reads as under:-

> "*This suit is coming on the 8th day of May, 2006, for its final disposal before me (Shri Sham Lal, PCS, Civil Judge (Junior Division), Samana), in the presence of Shri H.R.Gupta, Adv. Counsel for the plaintiff and Shri R.K.Bhan, Adv. Counsel for the defendant. It is hereby ordered that the suit of the plaintiff for permanent injunction fails and the same is hereby dismissed, whereas the counter claim of the defendant for specific performance of agreement to sell and permanent injunction succeeds and the same is hereby decreed with costs to the effect that defendant is entitled to get the relief of specific performance of agreement to sell dated 22.6.2001 and the plaintiff is directed to execute a registered sale deed in favour of the defendant as per agreement to sell dated 22.6.2001 after receiving the balance sale consideration amount within 30 days from the date of decision of the suit and in case the plaintiff fails to execute a registered sale deed in favour of the defendant within above said period, the defendant will*

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> *get the sale deed executed and registered through Court as per law after depositing the balance sale consideration amount within 30 days from the date of expiry of the abovesaid period of 30 days given to the plaintiff for executing a registered sale deed in favour of the defendant as per agreement to sell dated 22.6.2001. In case the defendant fails to deposit the balance sale consideration amount within the above said period of 30 days the counter claim shall stands dismissed. The plaintiff is also restrained from dispossessing the defendant from the land measuring 22 kanals comprised in khasra No.24//18/1(6-0), 24//13/2/(6-0), 14(7-0), 6 min (3-0) out of the suit land and alienating it in any manner to any manner except the plaintiff."*

The petitioner deposited the decretal amount in the court on 14.06.2006. The Executing Court dismissed the execution petition on the ground that the petitioner has failed to fulfill the conditional decree. It has been observed that the amount was to be deposited in the court within a period of 30 days from 08.05.2006 i.e the date of decree.

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

The language of the decree passed by the court is of utmost importance. The conditional decree has two parts. The first part grants an opportunity to the plaintiff (judgment debtor) to execute a registered sale deed in accordance with the decree after receipt of the balance sale consideration within a period of 30 days from the date of decision of the suit, whereas, the second part provides that if the judgment debtor fails to execute the registered sale deed, the decree-holder will get the sale deed executed and registered through the court of law after depositing the sale consideration amount within a period of 30 days from the date of expiry of the above said period of 30 days given to the judgment debtor

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to execute the registered sale deed in favour of the defendant. The judgment debtor failed to executed the sale deed in favour of the decree holder within a period of 30 days given by the court. Hence, the second part would come into operation. The period of 30 days would begin to run only after expiry of 30 days which was allotted for the first part. In the present case, the amount has been deposited within a period of 6 days from the second part started operating.

There is yet another aspect of the matter. The judgment debtor challenged the correctness of the judgment and decree passed by the trial court on 08.05.2006 by filing the first appeal as well as the second appeal. The second appeal came to be passed only on 06.05.2011 after certain modifications. In fact, the limitation would start begin to run from the judgment and decree passed in the second appeal.

In view of the aforesaid, the order under challenge is set aside. The deposit of the balance sale consideration is held to be within the prescribed time. The Executing Court is requested to register the sale deed in favour of the petitioner.

The revision petition stands allowed.

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

18.08.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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