

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

**Civil Revision No.869 of 2012 (O & M)
Date of Decision:-07.12.2022**

Sukhwinder Singh

...Petitioner

Versus

Surjit Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abhishek Goyal, Advocate
for the petitioner.

Mr. Jogendra Pundir, Advocate for
Mr. Nitesh Bhardwaj, Advocate
for the respondents.

NIDHI GUPTA J.(Oral)

Prayer in this civil revision filed under Article 227 of the Constitution of India is for setting aside the order dated 16.12.2011 (Annexure P-7) vide which the objection filed by the respondents/Judgment Debtor were allowed and the execution petition filed by the petitioner/Decree Holder was dismissed.

The petitioner is decree holder and as per the judgment and decree dated 22.7.2005 the petitioner was required to deposit the balance sale consideration within a period of two months. In the meantime, the respondent/judgment debtor came in appeal and the petitioner did not deposit the required amount i.e. Rs.20,000/-. The appeal of the respondents

was dismissed on 25.11.2006 and accordingly, on 03.1.2007 the petitioner filed an application (Annexure P-4) seeking permission to deposit the remaining sale consideration of Rs.20,000/- in the Court, before the Civil Judge (Jr. Divn.), Dhuri. This application of the petitioner was allowed vide order dated 3.1.2007 itself and the petitioner was permitted to deposit the remaining sale consideration of Rs.20,000/- within fifteen days. The petitioner accordingly deposited the requisite amount on 08.1.2007. In the meanwhile, Regular Second Appeal of the respondents/defendants/judgment debtors was also dismissed by Co-ordinate Bench of this Court on 18.11.2008. Thereafter, objections were filed by the respondents/judgment debtors in the execution petition to the effect that the petitioner has failed to deposit the decretal amount as per the decree, within the period of two months as stipulated therein.

In my view, the impugned order deserves to be set aside as there is no doubt that vide order dated 03.1.2007 extension of time was granted to the petitioner to deposit the amount of Rs.20,000/- within fifteen days. There was no challenge laid to the order of extension of time. Admittedly, petitioner complied with order dated 03.1.2007 and duly deposited Rs.20,000/- on 08.1.2007. I also draw support from the judgment rendered by Hon'ble Supreme Court in ***Surinder Pal Soni vs. Sohan Lal (D) through LR and others*** in Civil Appeal No.5360 of 2019, decided on 23.7.2019, wherein the submission of the judgment debtor that “....since the decree was not stayed pending the disposal of the appeal, there was no impediment in its execution and, upon the failure of the appellant to deposit the balance in the execution proceedings, the decree becomes

inexecutable....” was rejected.

In view of the above, the present revision petition is allowed.

Pending application(s), if any, stand disposed of.

December 07, 2022

Vijay Asija

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No