

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

204

CR No.959 of 2021

Date of decision : 21.11.2022

Lakhwinder Singh

..... Petitioner

V/S

Renu

..... Respondent

CORAM : HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr.Varun Dhawan, Advocate
for the petitioner.

Mr. Puneet Kumar Bansal, Advocate
for the respondent.

TRIBHUVAN DAHIYA J. (ORAL)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 02.03.2021 (Annexure P-6) passed by trial Court whereby the suit for specific performance filed by the petitioner-plaintiff has been held to be under-stamped document. Resultantly, the plaintiff was directed to pay the deficit amount of the stamp duty on the alleged agreement to sell plus ten times the penalty of deficit amount of stamp duty on the agreement to sell.

The order was based on a recital in the agreement to sell wherein the possession of the property is said to have been delivered to the plaintiff. This fact, however, has been disputed by the plaintiff as in the suit for specific performance filed by him (Annexure P-2), actual physical possession of the property by way of specific performance of the agreement to sell dated 23.10.2015 has been sought.

The issue need not be adjudicated at this stage as the physical possession over the property is a matter of trial, and the court is yet to arrive at a finding as to who of the parties is in possession. Besides, learned counsel for the parties are *ad idem* that in case the trial Court comes to a conclusion while finally deciding the suit that the plaintiff has been in possession of the suit property, he will be liable to pay the stamp duty as may be due at that time.

In view of the aforesaid, the impugned order dated 02.03.2021 (Annexure P-6) is set aside by ordering that the petitioner-plaintiff shall be bound to pay the stamp duty in case he is held to be in possession of the suit property by the trial Court.

The petition stand disposed of.

Pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

21.11.2022
Sunil Devi

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No