

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2615-2022 (O&M)
Decided on : 04.08.2022

Jasvir Singh

..... Petitioner

Versus

Vakil Chand and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Tajinder Pal Singh Makkar, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

CM-9030-CII-2022

Application is allowed as prayed for and copy of order dated
05.02.2019 (Annexure P-4) is taken on record subject to all just exceptions.

Main case

Instant petition has been filed under Article 227 of the
Constitution of India for setting aside the order dated 11.02.2022 (Annexure
P-3) passed by Civil judge, Jr. Divn., Gidderbaha, District Sri Muktsar
Sahib vide which an application under Section 28 of Specific Relief Act
(hereinafter referred to as 'Act') for Recession of Contract dated 17.09.1999
had been dismissed.

Learned counsel for the petitioner *inter alia* contends that the
impugned order is perverse and contrary to the settled principles of law.
The suit of the respondents-decree-holders was decreed vide judgment and
decree dated 19.07.2010 whereby they were directed to deposit the balance

sale consideration within three months from the date of decree i.e. before 19.10.2010. The respondents-decree-holders failed to deposit the balance sale consideration as per the directions given vide judgment and decree dated 19.07.2010 i.e. within the stipulated period and even thereafter extension of time was given to them. However, they deposited only Rs.1,12,900/- instead of Rs.1,15,375/-, which was less by Rs.2,475/- of the total sale consideration. He further submits that after being granted extension of time, the respondents-decree-holders did not deposit the entire balance sale consideration. Hence, in view of the conduct of the respondents-decree-holders, they were not entitled to get the sale deed executed and the agreement to sell dated 17.09.1999 was liable to be rescinded.

Heard learned counsel and perused the relevant material available on record.

No doubt, the respondents-decree-holders failed to deposit the balance sale consideration within the stipulated period of three months. However, during execution proceedings, the respondents-decree-holders were directed by the Court below to deposit the balance sale consideration vide order dated 17.09.2011 on or before 08.10.2011. Thereafter, the petitioner moved an application under Section 28 of the Act for the recession of the contract dated 17.09.1999, which was allowed by the Court below. The said order was however, set aside by this Court vide order dated 05.02.2019 passed in CR No.6702 of 2014. The petitioner thereafter moved the second application under Section 28 of the Act for recession of the contract dated 17.09.1999, which was dismissed vide impugned order dated

11.02.2022. The issue of Section 28 of the Act already stands dealt with by this Court in the aforementioned CR No.6702 of 2014. Still further, an amount of Rs.2,475/- which has not yet been deposited is a meagre amount and an application for depositing the same had already been moved prior to the passing of the order dated 05.02.2019, which was also allowed vide impugned order.

This Court is unable to accept the submissions made that the respondents-decree-holders had intentionally not deposited the aforementioned amount of Rs.2,475/- or mala fides were writ large. The possibility of a calculation error does seem to have occurred.

In the circumstances, this Court does not find error reason to set aside the impugned order. Accordingly, the instant petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

04.08.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No