

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-5189-2017

Date of Decision: 02.12.2022

SOHAN SINGH

...Petitioner

VERSUS

MUNISH KANSAL AND OTHERS

...Respondents

Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. H.S. Batth, Advocate for the petitioner

Mr. Sanjay Kaushal, Senior Advocate, with
Mr. Shelly Arora, Advocate,
for respondent Nos.1 to 4

JAGMOHAN BANSAL, J. (ORAL)

The petitioner through instant petition under Section 482 Cr.P.C. is seeking setting aside of impugned judgment dated 30.11.2016 (Annexure P-3), whereby learned Additional Sessions Judge, Sangrur, has upheld judgment dated 25.03.2016 (Annexure P-1) passed by learned Additional Chief Judicial Magistrate, Sangrur, whereby complaint of the petitioner was dismissed.

The brief facts, which are necessary for adjudication of the present petition are that the petitioner entered into an agreement to sell with respondents. The petitioner was undisputedly owner of the land for which agreement to sell was executed. The date of execution of sale deed was fixed as 25.10.2005, however, respondents did not come forward to get the sale deed registered. The respondents filed civil suit seeking recovery of a sum of Rs.6 Lacs, which was paid at the time of execution of agreement to sell. The Civil Court framed the following issues for adjudication:-

- “1. Whether plaintiffs are entitled for the recovery of Rs.6,70,000/- alongwith interest at the rate of 18% per annum? OPP
2. Whether suit is not maintainable in the present form? OPD
3. Whether the plaintiffs have no cause of action to file the present

suit? OPD

4. *Whether plaintiffs have made additions and alteration in the agreement to sell in question, if so its effect? OPD*

5. *Relief.”*

Learned Civil Court came to a conclusion that present respondents are entitled to refund of sum of Rs.6 Lacs and accordingly, decreed in favour of the respondents. The present petitioner preferred an appeal before learned District Court, which was dismissed vide order dated 04.04.2014. The petitioner preferred RSA No.3035 of 2014 before this Court, which came to be dismissed vide order dated 05.08.2014.

After losing its battle before the Civil Courts, the petitioner started another set of litigation. Being very convenient and costless, the petitioner opted to prefer complaint dated 06.06.2014 before learned trial Court, which came up for consideration before learned Additional CJM, Sangrur.

The petitioner filed complaint before learned trial Court alleging that respondents have made alteration in the agreement to sell. It is apt to mention here that this very question was framed by Civil Court while adjudicating suit for recovery. The trial Court, vide judgment dated 25.03.2016 dismissed the petition holding that Civil Court has already adjudicated the issues involved and factum of forgery was taken care of. It is not a case that civil suit was adjudicated in favour of the present petitioner, whereas things are other way round.

The petitioner preferred revision petition before learned Sessions Court, which came up for consideration before learned Additional Sessions Judge, Sangrur, who vide impugned order dated 30.11.2016, dismissed the petition. Learned Additional Sessions Judge, noticed judgment of the Hon'ble Supreme Court in ***Pepsi Foods Ltd. and Another v. Special Judicial Magistrate***

I have heard arguments of both sides and perused the record.

The present petition is bereft of merit and deserves to be dismissed.

From the perusal of order dated 05.08.2014 passed in RSA No.3035 of 2014 by a Co-ordinate Bench of this Court, it is quite evident that question of addition/alteration in agreement to sell was raised before Civil Court which after adverting with this question decided the suit in favour of present respondent. The petitioner unsuccessfully preferred an appeal before District Court which was further followed by RSA before this Court. It is case of mere misuse of process of law because there is no cost of litigation. It appears to be more luxury litigation than grievance of the petitioner. Once three Courts on civil side had already settled the issue, there was no reason for the petitioner to attempt to put the criminal law into motion. The petitioner was atleast expected to give rest to the litigation after dismissal of a revision petition.

Dismissed.

(JAGMOHAN BANSAL)
JUDGE

02.12.2022

mohit kumar

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No