

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

121

CR-6233-2019

Date of decision: 24.11.2022

RAJESH KUMAR ABHI

..Petitioner

Versus

HANSRAJ AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.D. Sharma, Advocate
for the petitioner.

Mr.Akhilesh Vyas, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

This revision petition has been filed by the judgment debtor. A conditional decree for specific performance of the agreement to sell was passed in favour of the respondents on 19.07.2014. The operative part of the judgment passed by the Civil Judge (Junior Division), Amritsar on 19.07.2014, is extracted as under:-

“14. In view of the above discussion, the suit of the plaintiff is therefore decreed with costs for specific performance of agreement to sell dated 03.08.2009 with respect to the suit property having 136.1 sq. yards for consideration to be paid @ Rs.3000/- per square yard and defendant is directed to execute the sale deed in favour of plaintiff against balance price at the cost of plaintiff as to stamp, registration charges etc within two months from the date of receipt of copy of judgment and to deliver the possession of the suit property in pursuance thereof failing which plaintiff shall be entitled to seek the registration of sale deed through court upon deposit of the balance sale consideration within one month of expiry of two months period granted to the defendant. It is further decreed that the defendant is restrained from alienating the suit property in any manner in favour of any other person except the plaintiff. Decree sheet be prepared accordingly. File be consigned to the Judicial Record Room, Amritsar after due compliance.”

The respondents did not deposit the payable amount within the period of three months as specified in the decree. The respondents-decree holders filed execution petition in the year 2017. Still, the respondents did not deposit the amount.

On 05.07.2019, while filing the application for extending the period to deposit the amount, the respondents asserted as under:-

“2. That in the decree itself, the court had granted the relief of specific performance, subject to condition that the decree holder shall deposit the balance consideration in two months from the date of decree, which could not be deposited inadvertently, since the execution was filed and the notices were issued to the J.Ds. As such the proceedings kept on.

3. That the said delay was not intentional. The decree holder is ready & willing to perform his part of decree and is ready to deposit the balance sale consideration, which come to Rs.3,18,300/-.”

The Executing Court has allowed the application while referring to the judgment passed in **Gayatri Devi and another Vs. Darshan Ram and another 2017 (2) PLR 429**. In that judgment, the Court has held that there is an enabling power available with the Court to extend the time, however, such power is required to be exercised with due care and caution. In a suit for specific performance of the agreement to sell, the plaintiff is required to prove his readiness and willingness to perform his part of contract which is required to continue even after the decree has been passed. The learned counsel representing the respondent No.1 does not dispute that the defendant never filed any appeal against the judgment and decree dated 19.07.2014. It is evident that the Court granted two months time to the plaintiff to pay the amount to the defendant and, thereafter, one month time to deposit the amount, if the defendant refuses to receive the amount. The application for

deposit was filed after a period of nearly 4 and ½ year. Even the execution application was filed in the year 2017. It is also evident that no plausible explanation for colossal delay of nearly 4 and ½ year has been furnished by the plaintiff.

In *Civil Revision No.6706 of 2019, titled as “Balbir Singh and others Vs. Baldev Singh (deceased) through LRs and others”, decided on 23.09.2022*, this Court after analyzing the various judgments passed by the Hon'ble Supreme Court held that though the enabling power to extend the period does exist with the Court, however, such discretion is required to be exercised prudently and with extreme caution.

Keeping in view the aforesaid facts, this Court is left with no other choice but to set aside the order dated 20.08.2019. The execution petition filed by the respondents shall stand dismissed.

With all these observations, the present petition is allowed.

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

November 24th, 2022

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(ANIL KSHETARPAL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>