

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

**CR-7694-2019(O&M)
Date of decision: 18.08.2022**

Gurcharan Singh

...Petitioner

Versus

Sulakhan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Slar, Advocate
for the petitioner.

Mr. Prateek Sodhi, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

This revision petition arises from an order passed by the Executing Court while dismissing the objections filed by the judgment debtor. Some peculiar facts are required to be noticed.

The judgment debtor executed a registered sale deed in favor of the decree holders on 02.12.1981 with respect to a land measuring 40 kanal and 19 marlas. In the sale deed it was recited that the land has been purchased @8000/- per acre. In fact, the land was declared surplus (beyond the ceiling limit prescribed under the Ceiling Laws). At that time, the proceedings for challenging the orders declaring the land surplus were pending. The judgment debtor filed a suit for the rectification of the sale deed on the ground that he has been paid only @5000/- per acre and not Rs.8000 per acre as decided in the sale deed. The trial Court decreed the suit, however, in first appeal the parties entered into a settlement.

The Appellate Court modified the decree which is extracted as under:-

"This appeal coming on for hearing on the 19th day of August, 1987 before me (K.S. Garewal, Additional District Judge, Amritsar in the presence of Sh.S.C.Sareen, Advocate counsel for appellant and of Shri G.D. Sodhi, Advocate, counsel for respondent, it is ordered that in view of the statement of Naranjan Singh appellant - 1 and the statement of Gurcharan Singh respondent, this appeal is dismissed, however , with the modification that respondent - 1 shall execute the sale deed of those parcels of the suit land which are not surplus at the rate specified in Ex.Pl within ninety days from today. He shall also execute sale deed of the remaining parcels of the suit land or those areas which get excluded from his surplus area at the same rate which is specified in Ex. Pl within nine days of the areas being excluded or communication of the to the appellants, whichever is later and shall also receive the rent at the rate of Rs.500/- per killa from the appellants from the date of this decree till registration of the sale deed. Under these circumstances, the parties are left to bear their own costs."

By that time land measuring 7 kanal 12 marlas was free from any restriction and the appellant's brother on receipt of a sale consideration executed a sale deed in favour of the decree holders. With respect to remaining land i.e. 33 kanal 07 marlas, the execution petition was filed on 24.07.2015. Before filing the execution petition, the decree holders sent a notice to judgment debtor on 02.09.2014, claiming that the remaining land is now out of the surplus area in view of the judgment passed by the High

Court on 08.05.2014 in CWP-10223-1991. Therefore, in accordance with the settlement, the sale deed was to be executed. The decree holders claim that the judgment debtor did not inform them about the judgment passed by the High Court, at an appropriate time.

While replying to the notice, the judgment debtor claims that the decree holders are not paying him rent @ 500/- per acre as agreed in the decree passed by the Court. As already noticed, the execution petition was filed by the decree holder. The objections filed by the judgment debtor have been dismissed. The correctness thereof is assailed in the present revision petition.

Heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner (judgment debtor) contends that the execution petition was filed beyond the prescribed time period and the decree holders deposited the amount only on 10.05.2019. He submits that the decree holders have failed to fulfill the conditional decree.

On the other hand, learned counsel representing the decree holders contend that as per the decree, the judgment debtor was required to inform the decree holders about the subsequent order excluding the suit land from the surplus area. He submits that the decree holders themselves sent a notice and promptly filed the execution petition.

The contention of learned counsel representing the petitioner is required to be examined in the facts of the present case. It was not a case of ordinary decree for specific performance of the agreement to sell. In fact, a

registered sale deed had already been executed in favor of the decree holders. They are required to pay an additional amount of Rs.3000/- per acre to the judgment debtor apart from the payment already made. The judgment debtor's brother has already executed a sale deed of 7 kanal and 12 marlas in favor of the decree holders. The payment of Rs.500/- as rent is payable at the time of registration of the sale deed.

It is also evident that the judgment debtor has never informed the decree holders about the judgment passed by the High Court on 08.05.2014, whereas it is the decree holders, who came to the Court by filing the execution petition.

The decree holders by filing the execution petition on 24.07.2015 has offered to pay the amount forthwith. They also offered to pay the amount at the time of sending a notice dated 02.09.2014, before filing the execution petition.

In view of the above, no ground to interfere is made out.

Dismissed.

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

August 18, 2022

ps-I

**(ANIL KSHETARPAL)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No