

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CR No. 6226 of 2016 (O&M)
Date of Decision : 14.03.2023

Jitender Kumar

...Petitioner

Versus

Rajbir Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Dinarpur, Advocate with
Mr. Sumit Gujjar, Advocate for the petitioner.

Mr. Diwan S. Adlakha, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

In the present civil revision petition, the challenge is to the order dated 29.07.2016 (Annexure P-5) passed by the court below on an application filed by the respondent-defendant filed under Order 7 Rule 11 CPC. The objection was taken by the respondent-defendant before the court below that the court fee was required to be deposited on a sum of ₹ 26,55,000/- keeping in view the agreement dated 13.10.2014 whereas, the same has not been deposited hence, the suit filed by the petitioner-plaintiff was liable to be rejected under Order 7 Rule 11 CPC.

The case of the petitioner-plaintiff was that by the agreement to sell dated 13.10.2014, the land measuring 3 kanal 11 marla was purchased @ ₹26,55,000/- per acre and the assertion of the

respondent-defendant that the total sale consideration as per the agreement to sell dated 13.10.2014 was ₹26,55,000/- is not correct.

After considering the rival contentions, keeping in view the pleadings of the parties, the trial court came to the conclusion that keeping in view the averments made in the plaint read with the agreement to sell dated 13.10.2014, the court fee was required to be paid on the sum of ₹26,55,000/-, which should be made good by the petitioner-plaintiff. The said order passed by the trial court is under challenge.

Learned counsel for the petitioner-plaintiff argues that the sale consideration as per the agreement to sell in question was much less than ₹26,55,000/- keeping in view the area of land purchased as value of the land was assessed at ₹26,55,000/- per acre in the agreement to sell dated 13.10.2014. Learned counsel for the petitioner-plaintiff submits that during the pendency of the present civil revision petition, petitioner-plaintiff had filed an application for amendment of the plaint to correct the ambiguity so as to allege that 3 kanal 11 marlas land was agreed to be purchased @ ₹26,55,000/- per acre, which amendment has already been accepted by the court below vide order dated 15.09.2022. Learned counsel for the petitioner-plaintiff further submits that in case, at the time of the final decision of the suit in question, the Court comes to the conclusion that the court fee deposited already is less than the amount required, he will do the needful at the relevant point of time.

Learned counsel for the respondent-defendant submits that keeping in view the undertaking given by the learned counsel for the petitioner-plaintiff that in case the court comes to the conclusion ultimately

that the total sale consideration as per the agreement to sell dated 13.10.2014 was ₹26,55,000/-, the petitioner-plaintiff will make good the court fee, the said undertaking may be recorded though, the said fact that the total sale consideration was less than ₹26,55,000/- as per the agreement dated 13.10.2014 is being disputed by the respondent-defendant.

Keeping in view the above, the order dated 29.07.2016 (Annexure P-5) is set-aside subject to the observation that in case, at the time of decision of the suit, the value of the property in question is found to be ₹26,55,000/-, the petitioner-plaintiff be directed to deposit the remaining court fee so as to make good the court fee.

CM-19184-CII-2016

As the civil revision petition is disposed of, the present application also stands disposed of.

March 14, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No