

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.3660 of 2019 (O&M)

Date of Order:11.12.2023

Balhar Singh

.Petitioner

Versus

Dilraj Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Khunger, Advocate
for the petitioner.

Ms. Manju Goyal, Advocate
for respondent no.1 to 3.

ANIL KSHETARPAL, J

1. The petitioner herein prays for setting aside the order passed by the civil Court on 08.05.2019, while dismissing the application filed for the extension of time.

2. The civil court of first instance passed the conditional decree for possession by way of specific performance of the agreement to sell in favour of the petitioner on 17.12.2014. The operative part of the judgment reads as under:-

“As an upshot of my above discussion on the above said issues, suit filed by the plaintiffs for possession by way of specific performance qua the land (as fully described in the head note of plaint, except the land mentioned in para no.25) is hereby decreed with costs against the defendant no.1 to 3. Accordingly, it is ordered that the plaintiff shall deposit the balance sale consideration for making payment towards the concerned defendant no.1 to 3 within one month from the date of this order and thereafter within one month the concerned defendants

no.1 to 3 shall execute and register the sale deed on the basis of agreement to sell dated 12.11.2005 in favour of the plaintiffs, otherwise, plaintiffs shall be entitled for the Relief through the agency of the court. The defendant no.1 to 3 are hereby permanently restrained from alienating the suit land (as fully detailed in the head note of the plaint). Since no Relief has been claimed against the defendant no.4 to 8, therefore, the present suit is dismissed qua defendants no.4 to 8. Decree sheet be prepared and file be consigned to record room, after due compliance.”

3. It is the case of the petitioner that the correctness of the aforesaid judgment passed by the civil court was upheld in the first appeal on 24.10.2016, whereas the regular second appeal filed by the respondent was dismissed on 23.08.2018. The petitioner applied for a certified copy of the judgment on 18.12.2014, which was delivered on 15.01.2015, realizing the fact that the decree holder is left with only one day to deposit the amount. He applied for the extension of time which has been dismissed by the Executing Court on the ground that it has become functus officio.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the petitioner submits that the trial court has erred in dismissing the application for extending the period for deposit of the amount on the ground that any changes cannot be made in the judgment and decree passed by the court as it has become functus officio.

6. On the other hand, the learned counsel representing the respondents tried to support the order.

7. The civil court has an enabling power to extend the period in accordance with Section 148 CPC read with Section 28 of the Specific

Relief Act. As such the civil court has erred in dismissing the application on the ground that it has become functus officio.

8. Keeping in view the aforesaid facts, the impugned order is set aside.

9. The revision petition stands allowed. The matter is remanded back to the trial court to decide the application afresh.

10 The parties through their counsel are directed to appear before the trial court on 22.12.2023.

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

December 11, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO