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

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**CR-4087-2023
Decided on : 24.07.2023**

Rahul Gupta

. . . Petitioner(s)

Versus

Tara Chand Mangla and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Mukesh Singla, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Present revision petition has been filed by the petitioner (defendant/judgment-debtor) for setting aside the impugned order dated 21.04.2023 (P-17), and all subsequent proceedings, arising after restoration of the execution application.

2. Learned counsel for the petitioner submits that the suit for specific performance of the Act, instituted by the respondent (plaintiff/decree-holder), was decreed vide judgment and decree dated 23.04.2018. However, execution application filed by the decree-holder, was dismissed in default for want of prosecution by the Execution Court vide order dated 25.03.2022 (P-10).

3. Learned counsel for the petitioner further submits that on the very same day i.e. 25.03.2022, an application for restoration of the execution application was instituted by the decree-holder/plaintiff, which was allowed vide impugned order dated 21.04.2023 (P-17). The operative part of the said impugned order says as under:-

“4. Having heard the rival submissions of both sides and having gone through the case file, this court is of the view that the above said application has been moved by the applicants/decreed holders on the same date i.e. 25.3.2022, which is well within period of limitation. No prejudice would be caused to the JD/respondent, if both the parties heard on merits and present

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execution petition is decided on merits. Therefore, in view of the above reason and discussion, the application for restoration of the execution petition is hereby allowed. The above said execution be restored to its original number.

Now, the present execution is adjourned to 12.5.2023 for filing proposed sale deed by the decree holders.”

4. Learned counsel submits that there is no plausible reasoning in allowing the application, rather, rights of the defendant/judgment-debtor are effected. In fact, respondents were not having sufficient amount as balance sale consideration, on the day when execution application was dismissed for non-prosecution.

5. I have considered the submissions addressed by learned counsel for the petitioner, but does not find any sound reasoning in accepting the submissions for the reason that there is no fixed date before the Execution Court for preparation of the proposed sale-deed, and to make payment of the balance sale-consideration at that very moment. The relevant question of readiness and willingness could be for its consideration before the Trial Court, which dealt with the suit proceedings, but not in the execution proceedings.

Otherwise also, there is a limitation of 12 years for filing of the execution application for the decree-holder, therefore, the objection in restoration of the execution application is meaningless. Rather, allowing of the application would avoid filing of the multiple number of fresh applications before the concerned Court.

Thus, finding no merit in the present revision petition, stands dismissed.

(SANJAY VASHISTH)
JUDGE

July 24, 2023
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No