

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

Civil Revision No. 4218 of 2023(O&M)

Date of Decision: 28.07.2023

Jorawar (since deceased) through his LR's & Ors.

...Petitioners

Versus

Mohinder Singh (since deceased) through his LR's & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Abhimanyu Singh, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioners/JDs against the order dated 25.05.2023 (Annexure P-9) by the Court of Additional Civil Judge(Sr.Divn.), Bhiwani in an execution application No. 173 of 2018 titled Mahender & Ors. Vs. Jorawar & Ors., whereby an application filed by the petitioners for framing of issues with regard to objections raised by the petitioners, has been dismissed.

2. The counsel for the petitioner, *inter alia*, contends that the aforesaid application has been declined by the Executing Court without appreciating the fact that the objections filed by the JD are having merit. It is further submitted that the decree holder failed to deposit the balance sale consideration within the stipulated period and on this sole ground the execution application deserves to be dismissed. It is further contended that issue also requires to be framed with regard to readiness and willingness of the respondents to perform their part of the contract and also regarding fabrication of agreement to sell in question. That the respondents are having no right to challenge decree dated 19.10.1981 passed in Civil Suit No. 455

of 1981. The counsel for the petitioner further submits that all these issues require proper adjudication after recording of evidence and thus, the impugned order is liable to be set aside.

3. I have considered the submissions made by counsel for the petitioners.

4. Admittedly, the plaintiff filed suit for specific performance of agreement to sell dated 05.10.1981 as per which the defendants agreed to sell their land measuring 173 *kanals* 04 *marlas* to the plaintiff for consideration of Rs.3,38,450/- and received Rs.1,08,450/- as earnest money and the sale deed was to be executed and registered on 15.06.1982. The said suit was dismissed by the learned trial Court but the appeal was allowed and the suit was decreed by the Court of learned District Judge, Bhiwani. Regular second appeal filed against the said judgment was dismissed by this Court vide judgment dated 02.05.2018 and the SLP filed by the petitioners was also dismissed on 06.05.2022. Even the review application filed by the petitioners was also dismissed. The issues with regard to readiness and willingness of the proposed vendee to perform his part of the contract is already dealt with upto Hon'ble Supreme Court. Likewise, issues with regard to genuineness of the agreement to sell dated 05.10.1981 and the validity of decree dated 19.10.1981 were also taken care of by the First Appellate Court upto Hon'ble Supreme Court. The learned Executing Court has rightly observed that the issue with regard to deposit of balance sale consideration is a matter of record. Further, the Executing Court while dealing with delay, if any, in deposit of the balance sale consideration, is to take into consideration the fact that the matter was finally decided by the Hon'ble Apex Court on 06.05.2022 and the date i.e. 15.07.2022 on which

review application was dismissed and further to consider the provisions of Section 28 of Specific Relief Act and Section 148 CPC.

5. From the above discussion, it is evident that there is no need to frame issues in the objection petition filed by the petitioners. There is no illegality in the impugned order. Consequently, the present petition is dismissed.

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(KARAMJIT SINGH)
JUDGE

28.07.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No