

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CWP-29708-2017
Date of decision: 02.03.2023

MANOJ KUMAR

.....Petitioner

VERSUS

THE CHAIRMAN DAILY LOK ADALAT-CUM-ADDL DISTRICT JUDGE
AND ORS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Gagandeep Singh, Legal Aid Counsel
for the petitioner.

Mr. Sanjiv Kumar Aggarwal, Advocate &
Mr. Ojas Bansal, Advocate
for the respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the order dated 13.02.2017 (Annexure P-1) passed by Daily Lok Adalat-cum-Additional District Judge, Kaithal in Civil Appeal No. 20 of 2017 whereby the appeal against judgment and decree dated 12.10.2016 passed by Civil Judge (Junior Division), Kaithal in Civil Suit No. RBT-146 of 2013 was permitted to be dismissed as withdrawn.

2. Counsel for the petitioner avers that the he had filed a civil suit before the Civil Judge (Junior Division), Kaithal bearing No. RBT-146 of 2013 for possession by way of specific performance of agreement dated

14.03.2009. The above said suit was dismissed by the Civil Judge (Junior Division) vide judgment and decree dated 12.10.2016. Aggrieved thereof, an appeal had been preferred before the District Judge, Kaithal.

3. He contends that a complaint had also been instituted by respondent No.2-Randhir Singh against the petitioner alleging forgery of the Agreement to Sell wherein the petitioner had been summoned. An oral agreement was entered into between the petitioner and the respondent No.2 as per which the respondent No.2 agreed to remit an amount of Rs. 40 lacs to the petitioner and that upon his remitting the abovesaid amount, the petitioner/appellant was to withdraw the pending appeal and that the respondent No.2-Randhir Singh was also to withdraw the instituted criminal complaint against the petitioner. Accordingly, he withdrew the pending appeal and the complaint was withdrawn by respondent No. 2-Randhir Singh. However, the amount of Rs. 40 lacs as was orally agreed by the respondent No.2 to be remitted to the petitioner has not been disbursed. He has thus prayed that the order dated 13.02.2017 (Annexure P-1) passed in Appeal CIS No. 47 of 2017 be set aside and the matter be remanded to the Additional District Judge, Kaithal for adjudication on merits.

4. Written statement on behalf of respondent No.2 has been filed wherein it has been averred that the petitioner had filed civil suit No. 146 of 2013 for possession by way of specific performance of the agreement dated 14.03.2009 on the basis of a forged and fabricated agreement to sell. The suit on the strength of the aforesaid forged document was filed on 16.07.2009. A specific plea that the agreement to Sell was forged and fabricated was also taken by the respondent No.2. The said suit was dismissed vide judgment and decree dated 12.10.2016 passed by the Civil

Judge (Junior Division), Kaithal. He refers to the specific finding recorded by the Civil Judge (Junior Division) in his judgment which is extracted as under:

“20. In the light of discussion above, it is held that defendant never executed agreement to sell Ex.P1 and consequently never received earnest money of Rs.30,00,000/- from plaintiff. In view of this, question of readiness and willingness of plaintiffs to perform his part of contract shall pale into insignificance as once it is already held that the plaintiff has failed to show the intention of the defendant to sell his land by virtue of agreement to sell Ex.P1. Issue no.1 is decided against the plaintiff and issue no.7 is decided in favour of the defendant.”

5. He further submits that since the suit had been instituted on the basis of forged agreement to sell, a criminal complaint case No.211 of 2014 was also instituted on 30.11.2009 against the petitioner and four others and all the said accused had been summoned in the said criminal complaint.

6. The civil suit was dismissed by the Civil Judge (Junior Division), Kaithal after recording a specific finding that the agreement to sell was never executed between the parties and the respondent No.2-defendant therein never received the earnest money of Rs. 30 lacs as alleged in the suit.

7. Aggrieved thereof, an appeal was preferred before the District Judge where the statement of the parties was duly recorded. There is no such reference of any amount agreed to be paid by the respondent No.2 to the petitioner. Extract of the said statement of Manoj Kumar-the petitioner herein recorded on 13.02.2017 reads thus:

*Statement of Manoj Kumar, aged 45 years (in custody)
son of Chajju Ram son of Sher Singh, resident of Village*

Chandana Tehsil and District Kaithal.

Stated that I have heard the above statement of the respondent which is correct the matter has been compromised in daily Lok Adalat. I do not want to continue with the appeal and withdraw the same. Be consigned to records. The Court fee affixed by me before the Ld. Trial Court be refunded to me.

RO&AC
Sd/- Randhir Singh
Identified by Advocate

Sd/-R.N. Bharti
Addl. District Judge
Kaithal 13-02-2017

8. It is further submitted by the counsel for respondent No.2 that there was no occasion of any oral settlement to refund any consideration money to the petitioner and no such fact is also recorded in the abovesaid statement. Once the recording of the aforesaid statement is not disputed by the petitioner, there is no occasion to infer that there was any agreement other than what has been recorded by the Lok Adalat. Besides, there is no reason why petitioner would not get the same recorded in his statement, if it had been so.

9. He further submits that even though the written statement had been filed on behalf of respondent No.2 in May, 2019, however, no replication controverting the submissions raised therein has been filed by the petitioner.

10. I have heard learned counsel appearing on behalf respective parties and have gone through the documents appended alongwith the present petition.

11. The case of the petitioner is based solely on the contention that an oral agreement had been arrived at between the parties whereby the

respondent No.2 had agreed to remit a payment of Rs. 40 lacs and that he had not fulfilled his part of the obligation to the said extent despite the appeal in question having been withdrawn.

12. The said contention raised by the petitioner however does not inspire the confidence of this Court. The petitioner does not dispute the recording of the statement before the Additional District Judge, Kaithal. There is no reference of any amount to be remitted by respondent No.2-defendant in the civil suit to the petitioner herein. No plausible explanation has been given by the petitioner as to why he did not get the aforesaid aspect recorded in the abovesaid statement at the time of seeking withdrawal of his appeal especially when the payment of the consideration/remittance of the amount is claimed to be fundamental to the agreement amongst the parties.

13. Further, the statement of the petitioner as recorded by the Additional District Judge, Kaithal has also been extracted above and there is no reason to believe that the statement recorded during the course of Court proceeding would not reflect the complete and correct statement. As a matter of fact, it is not even the case of the petitioner that he had actually made a statement also about the payment to be remitted by the petitioner and that the same had not been recorded by the Additional District Judge, Kaithal.

14. It is even otherwise incomprehensible that the respondent No.2 would agree to remit a sum of Rs. 40 lacs especially when the petitioner herein was already facing a criminal proceeding for forgery of an agreement to Sell and also when the execution of Agreement to sell had itself been disbelieved by the Civil Court itself.

15. Hence, considering the submission from either perspective, the order dated 13.02.2017 whereby the petitioner withdrew his appeal cannot

be said to have been passed wrongly or illegally by the Court. Unless the order passed by Lok Adalat suffers from patent illegality or establishes fraud, there is no reason to set aside such an order more so when the settlement has evidentially been given effect to the parties. The complaint has been withdrawn by the respondent No.2. The petitioner also chose not to file any replication to the written statement. The remedy, even if the circumstances as alleged are accepted to be correct for the sake of arguments would have been to seek enforcement of the said agreement. No such action as per law has been taken.

16. The present petition thus seems to be an afterthought and attempt to harass and to blackmail the respondent and to turn back on the compromise that had been executed by the petitioner out of free volition and weighing all the pros and cons.

The present petition is thus dismissed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 02, 2023

Vishal Sharma

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