

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

119

2024:PHHC:059666

CR-1881-2018

Date of decision: 01.05.2024

MAHESH AND ORS

..Petitioner

Versus

NIRMALA DEVI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Sandeep Kotla, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed by the judgment debtor to challenge the correctness of Executing Court's order dated 04.01.2018, which has resulted in the amendment of the judgment and decree passed by the trial Court.

2. In order to comprehend the issues involved in the present case, certain relevant facts, in brief, are required to be noticed.

3. The respondent filed a suit for possession by way of specific performance of the agreement to sell, which was decreed on 17.08.2017. The plaintiff was granted the alternative relief of recovery of Rs.13,00,000/- along with interest at the rate of 9%, however, the date from which the 9% interest was to be awarded was not specified. The execution petition was filed by the decree holder. The Executing Court has held that there is an error in the judgment passed by the Court, however, the judgment debtor has been directed to pay the amount along with interest at the rate of 9% per annum from the date of the agreement to sell.

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

5. In the considered opinion of this Court, the Executing Court was not required to dispose of the matter in such manner. The appropriate course was to relegate the decree holder to the alternative remedy of filing of the application before the same Court for amendment of the judgment and decree passed in case the judgment and decree was vague and uncertain.

6. On being confronted with the aforesaid position, the learned counsel representing the respondent submits that he will file an application for amendment of the judgment and decree in accordance with law.

7. Keeping in view the aforesaid facts, the revision petition is allowed. The impugned order is set aside with liberty to the respondent to file an application for amendment of the judgment and decree.

8. If such application is filed within a period of 15 days from today, the same shall be decided on merits.

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

May 01st, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*