

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.315 of 2020 (O&M)
Date of Order:07.03.2024

Kartar Ram (now deceased) through His Lrs
Versus

.Petitioner

Jaswant Singh (deceased) through LR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Cooner, Advocate
for the petitioner.

Mr. Amandeep Singh, Advocate
for the respondent.

ANIL KSHETARPAL, J

1. A conditional decree for possession by way of specific performance of the agreement to sell was passed in favour of the petitioner (decree holder) on 13.03.2012. He was directed to pay the balance sale consideration of Rs.8,000/- to the defendant within a period of two months from the date of order.

2. The ex-parte judgment was passed in favour of the petitioner as the defendant through his legal representatives did not contest. Thereafter the petitioner for the first time filed execution petition in the year 2013, which was withdrawn by the petitioner on 02.09.2016. The petitioner during all this while never deposited the amount in the court, although, his first execution petition remained pending for more than 3 years. Undoubtedly, an application Under Order IX Rule 13 CPC filed by the legal representatives of the defendant was dismissed in default on 27.01.2016. Thereafter, the petitioner filed the second execution petition on 12.10.2016.

4. This Bench has heard the learned counsel representing the

parties at length and with their able assistance perused the paper book along with the respective synopsis.

3. The respondents filed an application under Section 28 of the Specific Relief Act, 1963, for the rescission of the contract. The court has allowed the application under Section 28 of the Specific Relief Act, whereas dismissed the execution petition filed by the petitioner. The correctness of the aforesaid order has been challenged in this revision petition.

5. It is not disputed that the petitioner filed first execution petition on 02.06.2012, however, he did not deposit the remaining amount as per conditional decree passed in his favour. In between he withdrew the execution petition. There was no interim protection in favour of the defendants during the pendency of the petition under Order IX Rule 13 of the Code of Civil Procedure, 1908. Still the petitioner did not take steps to deposit the amount. In a suit for specific performance of the agreement to sell, a conditional decree is passed that is subject to fulfillment of the conditions. The petitioner was required to fulfill the aforesaid conditions in order to avail the benefits of the decree. In this case, the petitioner has miserably failed to fulfill the aforesaid obligation.

6. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

7. Dismissed.

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

March 07, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO