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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2040-2022 (O&M)

Date of Decision : 09.01.2025

Tarsem Singh

..... Petitioner

Versus

Om Parkash

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

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

Mr. P.S.Jammu, Advocate
for the respondent.

VIKRAM AGGARWAL, J (ORAL)

Challenge in the present revision petition is to the order dated 12.03.2021 (Annexure P-4), passed by the Court of learned Additional Civil Judge (Senior Division), Sirsa vide which the application moved by the respondent-plaintiff for deposit of the balance sale consideration as had been ordered vide judgment and decree dated 08.08.2019 (Annexure P-1) was allowed.

2. The petitioner-defendant Tarsem Singh was owner of 07 kanals of land situated at Village Bhangu, Tehsil & District Sirsa. He executed an agreement to sell on 03.06.2016 with the respondent-plaintiff Om Parkash vide which he agreed to sell the said land to the respondent-plaintiff for a consideration of ₹17,00,000/- per acre. ₹10,00,000/- was paid as earnest money and the balance sale consideration was to be paid at the time of registration of the sale deed on 05.12.2016.

3. For the sale deed was not executed, a suit for possession by way



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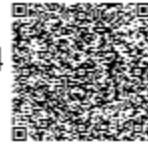
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of specific performance of the agreement to sell dated 03.06.2016 was filed by the respondent-plaintiff against the present petitioner-defendant. The suit was decreed vide judgment and decree dated 08.08.2019 (Annexure P-1). It was held that the present petitioner-defendant would execute the sale deed in favour of the respondent-plaintiff within a period of 03 months from the date of passing of the judgment failing which, the respondent-plaintiff would be entitled to get the sale deed executed and registered through Court. It is the case of the petitioner that an appeal against the said judgment and decree was filed but no stay was granted.

4. The respondent-plaintiff moved an application (Annexure P-3) before the Court concerned seeking permission to deposit the balance sale consideration. Notably, this application was moved in the year 2020 and vide the order under challenge dated 12.03.2021, the said application was allowed and the respondent-plaintiff was permitted to deposit ₹7,87,000/- as balance sale consideration within a period of one month.

5. I have heard learned counsel for the parties.

6. Sh. Sanjiv Gupta, learned counsel representing the petitioner submits that the Court below gravely erred in allowing the application without even issuing notice to the present petitioner. It has been submitted that after the judgment and decree dated 08.08.2019 having been passed, the application could have been moved within a period of 03 months but the application was moved in the year 2021 with a cooked up story of a compromise having been arrived at between the parties and the said application was also allowed by the Court concerned without even issuing notice to the petitioner. It has been submitted that the impugned order has,



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therefore, caused grave prejudice to the petitioner, for the petitioner was not even able to put forth his stand before the Court concerned and controvert the averments made in the application.

7. Per contra, Sh. P.S.Jammu, learned counsel representing the respondent has submitted that in fact, a compromise had been arrived at between the parties but since the petitioner backed out of the same, the application had to be filed by the respondent and in support of his averments, he had produced two witnesses also. Learned counsel submitted that the version of the respondent and the witnesses produced by him was found to be truthful and, therefore, the Court rightly allowed the application.

8. I have considered the submissions made by learned counsel for the parties.

9. Admittedly, the suit was decreed on 08.08.2019 and the following relief was granted:-

“Issue No.6 (Relief)

26. As a sequel to my findings on all the issues above, present suit filed by the plaintiff succeeds and is decreed with costs for possession of suit land, fully detailed and described in the head note of the plaint, by way of specific performance of the agreement dated 03.06.2016, executed by defendant in favour of the plaintiff on payment of balance sale consideration and incurring the expenses of stamps and registration fee etc. as per the terms and condition of the said agreement. The defendant is directed to execute the sale deed in favour of the plaintiff within a period of three months after passing of this judgment. In case, he failed to execute the sale deed within the stipulated period, then



the plaintiff will be entitled to get the sale deed executed and registered through Court whereas, in case the plaintiff fails to deposit the balance sale consideration for getting the sale deed executed and registered within the said period, then the suit shall stand dismissed with costs. Further, the defendant is hereby restrained from alienating/transferring the suit property to any other person except the plaintiff and also from creating any change over the suit property. Decree-sheet be drawn accordingly. Original un-exhibited documents be returned to the parties concerned as per rules after retaining the photocopy of the same on the file. File, after due compliance, be consigned to the record room.”

10. The amount, in terms of the aforesaid directions had to be deposited within a period of three months. Admittedly, the same was not deposited. Further, admittedly, an appeal was filed by the present petitioner against the said judgment which is on record as Annexure P-2 but no stay was granted. The respondent then moved an application before the Court concerned in the year 2020 stating that he could not deposit the amount in three months because of a compromise having been arrived at between the parties as per which the petitioner-defendant had to return the money alongwith upto date interest and an appeal also had to be filed so that the Court fee could be refunded. It was averred that a sum of ₹3,00,000/- was paid by the petitioner-defendant and the remaining amount was to be paid which he did not pay and, therefore, the application was filed beyond the time fixed by the trial Court. The application shows that the same was filed in 2020 and not in 2021 as has been projected by the learned counsel for the



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petitioner, because in the said application, it has been mentioned that the appeal is fixed for hearing on 01.08.2020. In any case, it was filed beyond the period of three months. In the considered opinion of this Court, the least that was expected from the Court concerned was to issue notice of the application to the present petitioner so that the stand of the present petitioner could also have come on record and then the Court could have taken a decision on the application in accordance with law. The Court below erred in straightway allowing the application without even giving an opportunity to the petitioner to present its stand.

In view of the above, the present revision petition is allowed. The impugned order 12.03.2021 is set aside and the matter is remitted to the Court concerned to take a fresh decision in accordance with law after issuing notice to the petitioner and hearing both the parties.

09.01.2025
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(VIKRAM AGGARWAL)
JUDGE

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