

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

2025:PHHC:036470



ESA-3-2012

Date of decision: 18.03.2025

LEHNA SINGH

..Appellant

Versus

SURESH KUMAR AND ORS

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Sr. Advocate
with Mr. Varun Parkash, Advocate
for the appellant.

Mr. Jai Singh Yadav, Advocate
for respondent No.1 and 2.

Mr. Vishal Garg Narwana, Advocate
Mr. Arishdeep, Advocate
Ms. Chetna Rao, Advocate
Mr. Khushwant Saharan, Advocate
for respondent No.14.

ANIL KSHETARPAL, J(Oral)

After hearing learned counsel for the parties, the following order
was passed on 17.03.2025:-

“Sh. Vishal Garg Narwana, enters appearance on behalf of respondent No.14, one of the objector. A collective objection petition was filed by respondent No.3 to 15. Respondent No.14 is represented. Her interest is common with other objectors, hence, she can watch the interest of remaining objectors.

As per the office report, notice issued to respondent No.8, 11, 12 and 13 have been received back served, however, they remain unrepresented.

Hence, the case is complete for arguments.

*Learned counsel for the appellant submits that there is a decree for specific performance of agreement to sell in favour of the appellant, however, the Executing Court has dismissed the execution petition on the ground that he has not sought the relief of possession. He relies upon **Manickam @ Thandapani and another Vs. Vasantha, 2022 SCC Online SC 2096.***

Learned counsel for the respondent prays for some time to study the same.

List for final arguments on 18.03.2025, in the urgent list.



It may be noted here that ESA-9-2012 filed by the objectors was dismissed as withdrawn on 06.07.2012.”

Learned counsel for the parties have once again been heard.

The legal position as laid down by the Supreme Court in **Manickam @ Thandapani's case (supra)**, is not in dispute. The Executing Court as well as First Appellate Court has dismissed the objection petition filed by the objectors against which execution second appeal filed by the third party objector has been dismissed as withdrawn on 06.07.2012, however, the Executing Court has refused to deliver possession to the appellant on the ground that he never sought relief of possession while seeking relief of specific performance. In **Manickam @ Thandapani's case (supra)**, it has been held that the relief of possession is inevitable and inbuilt in the relief of specific performance. Hence, the impugned judgment passed by the Executing Court, which has been affirmed by the First Appellate Court to the extent of denying relief of possession to the appellant, who is a decree holder are set aside.

The Executing Court is requested to proceed with the delivery of possession.

Disposed of accordingly.

March 18th, 2025

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(ANIL KSHETARPAL)
JUDGE

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