



CR-7384-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CR-7384-2024

Date of decision : 20.01.2025

Arjan Singh (deceased) through his LRs

... Petitioner

Versus

Sant Kumar and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Mandeep K. Sajjan, Advocate  
for the petitioner (through V.C.).

**VIKAS BAHL, J.(ORAL)**

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India praying for quashing of order dated 21.09.2024 (Annexure P-9) passed by the Civil Judge (Jr.Div.), Chandigarh, vide which the objections filed by the petitioners have been disallowed.

2. Learned counsel for the petitioner has submitted that in the present case, respondent no.1 had filed a suit for possession by way of specific performance of agreement to sell dated 15.04.2004 with respect to the house no.3526, Sector 35-D, Chandigarh and in the said suit, compromise had been entered into and accordingly, the same was disposed of by granting the alternate relief to respondent no.1 for recovery of Rs.3,50,000/- along with interest @ 12% p.a. along with advalorem court fee of Rs.34,800/-. It is further submitted that an amount of Rs.85,000/- was

**CR-7384-2024****2**

to be deducted from the same and the balance amount was to be paid. It is submitted that subsequent to the passing of the said decree dated 15.11.2010, the petitioner had paid the entire amount and regarding the same, a receipt dated 05.09.2014 had been issued by respondent no.1, as per which, the entire amount had been paid. It is submitted that in spite of the same, respondent no.1 has filed an execution application and is pursuing the same and that the petitioner had filed objections, which have been dismissed vide order dated 21.09.2024, which order is illegal and deserves to be set aside and the objections filed by the present petitioner deserve to be allowed as the petitioner has already paid the decretal amount.

3. This Court has heard the learned counsel for the petitioner and has perused the paper book and finds that the impugned order dated 21.09.2024 is in accordance with law and deserves to be upheld and the revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. It is not in dispute that respondent no.1-plaintiff-decree holder had filed a suit for possession by way of specific performance of agreement to sell dated 15.04.2004 with respect to house no.3526, Sector 35-D, Chandigarh, measuring 169 square yards and during the pendency of the case, the matter was compromised and separate statements were recorded and the suit was decreed with respect to alternate relief of recovery of Rs.3,50,000/-. The relevant portion of the decree sheet is reproduced hereinbelow:-

**“PLAINT PRESENTED ON 18.4.2007**



CR-7384-2024

3

*This suit is coming before the undersigned (Rajeev Kumar PCS) Civil Judge Junior Division Chandigarh, for final disposal in the presence of Mr. Vinay Bhandari, Advocate, Counsel for the plaintiff & Mr. Raj Kumar Goyal, Advocate, Counsel for the defendant.*

*It is hereby ordered that the plaintiff has received Rs.85,000/-out of settled amount of Rs.3,50,000/-. Balance amount is still to be paid by the defendant. Therefore, in view of this out of court settlement arrived in between the parties, the relief for possession by way of specific performance of agreement to sell dated 15.4.2004 in respect of house no.3526, Sector 35-D, Chandigarh measuring 169 sq.yds. has become infructuous and that relief is hereby declined. **However, alternative relief for the recovery of Rs.3,50,000/-along with interest @ 12% p.a. is hereby allowed to the plaintiff with costs and advelorem court fee amounting to Rs.34,800/-and other costs and a decree for recovery is hereby passed in favour of the plaintiff against the defendants accordingly. The amount of interest shall be kept on charging on the defendant till he makes the entire payment. It is clarified here that the amount of Rs.85,000/-which the defendant has paid to the plaintiff till 14.8.2010 is liable to be adjusted towards the total amount.** Accordingly, the present suit stands disposed off with allowing the alternative relief to the plaintiff for recovery of the amount.”*

A perusal of the above would show that an alternative relief for recovery of Rs.3,50,000/- was granted to the respondent no.1-plaintiff along with 12% per annum interest and in addition to the said amount, Rs.34,800/- was also granted, which was stated to be the advalorem court fee and an amount of Rs.85,000/- was to be adjusted from the total amount.



CR-7384-2024

4

execution, the petitioner-judgment debtor had filed objections. The said objections were dismissed vide order dated 21.09.2024 and the case was adjourned to 08.10.2024 by giving one last opportunity to the petitioner (LRs of the judgment debtor) to make the requisite payment failing which the Executing Court would have been constrained to pursue the execution proceedings further. The orders passed subsequent to 21.09.2024 have not been annexed along with the present petition.

5. The sole argument raised by the learned counsel for the petitioner is that the entire amount has been paid by the petitioner and for the said purpose, sole reliance has been placed upon the receipt dated 05.09.2014. The relevant portion of the receipt is reproduced hereinbelow:-

*“I Sant Kumar S/o Shri Barkat Ram received of Rs. One Lac (Rs.1,00,000/-) from Arjan Singh on dated 5.9.2014. **I had already received Rs. Two Lacs Thirty Five thousand only.** Now nothing due against Arjan Singh. I hand over the receipt to Arjan Singh.”*

6. The Executing Court in the order dated 21.09.2024 had observed that only the photo copy of the said receipt had been produced in spite of the fact that the same had been denied by the decreed holder and that the onus was on the petitioner / objecter / LRs of the judgment debtor to prove the said receipt in accordance with law, moreso, since there was a decree passed in favour of respondent no.1-plaintiff which had to be satisfied. It was further observed that there was nothing to show as to where the original receipt was and only a photocopy of the same had been produced which was inadmissible in law and no efforts had been made for



CR-7384-2024

5

seeking permission of the Court for producing on record the photocopy of the said receipt in secondary evidence by asserting either loss of the document or by stating about the custody of the said document. It is not disputed before this Court that photocopy of the said document was produced and no application for secondary evidence was filed so as to prove the existence or loss of the said document. The said receipt has been denied by the respondent-decree holder in the Executing Court. No law has been cited before this Court to show that in such circumstances the said receipt, of which only the photocopy is produced, is admissible in evidence. Thus, the Executing Court had rightly rejected the said receipt. Additionally, it would be relevant to mention that a perusal of the receipt would show that it had been stated that earlier an amount of Rs.2,35,000/- had been paid. However, no date with respect to the said payment or any prima-facie proof, much less, a written receipt has either been referred to or produced on behalf of the petitioner. After passing of the order dated 21.09.2024, proceedings for recovery are pending and the present petition has been filed without bringing on record the said subsequent proceedings.

7. Keeping in view the abovesaid facts and circumstances, the impugned order dated 21.09.2024 deserves to be upheld and the present petition deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)  
JUDGE

January 20, 2025.  
*Davinder Kumar*