



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

(110)

CR-4004-2026 (O&M)**Date of Decision :-22.05.2026**

Sukhdev Singh

... Petitioner

Versus

Harjit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Sanjay Jain, Advocate
for the petitioner.

VIRINDER AGGARWAL, J.

1. The present revision petition has been instituted under Article 227 of the Constitution of India invoking the supervisory jurisdiction of this Court to assail the legality and correctness of the order dated 20.03.2026 (Annexure P-1) passed by the learned Additional Civil Judge (Senior Division), Rupnagar, acting in the capacity of the Executing Court.

2. The factual backdrop giving rise to the present proceedings is that the petitioner instituted a civil suit against the respondent-defendant/Judgment Debtor (JD) seeking the relief of specific performance of an agreement to sell dated 02.08.2008 pertaining to land measuring 50 acres. The said suit came to be partly decreed vide judgment and decree dated 31.03.2017, whereby the respondent/JD was directed to



execute the sale deed to the extent of *702/18444 share* upon receipt of the balance sale consideration within a period of two months, after adjusting an amount of ₹25 lakhs already received towards earnest money. Aggrieved thereby, the respondent/JD preferred an appeal, which was partly allowed by the learned District Judge, Rupnagar vide judgment and decree dated 14.09.2017. By virtue of the modified decree, the respondent/JD was directed to execute the sale deed in favour of the petitioner/decreed-holder with respect to her share in the suit property upon payment of the balance sale consideration within a period of two months after adjusting ₹17 lakhs already received by the defendant. It was further directed that in the event of non-compliance, the petitioner/decreed-holder would be at liberty to seek enforcement of the decree through the process of the Civil Court.

3. It is further averred that the respondent/JD failed to comply with the terms of the decree within the stipulated period of two months. Consequently, the petitioner/decreed-holder instituted the first execution petition on 08.04.2021; however, the same came to be dismissed in default on 18.03.2025. Thereafter, a second execution petition was instituted on 12.08.2025. In response thereto, the respondent/JD filed objections challenging the maintainability and execution thereof, which objections were duly contested by the petitioner/decreed-holder. Upon consideration of the rival submissions, the learned Executing Court allowed the objections vide the impugned order.



3.1. Aggrieved by the aforesaid order and asserting that the same suffers from legal infirmity and jurisdictional error, the petitioner has approached this Court through the present revision petition.

4. Learned counsel for the petitioner vehemently contended that the learned Executing Court failed to appreciate that the decree in question did not contain any default or automatic rescission clause providing that, in the event of failure on the part of the petitioner/decreed-holder to deposit the balance sale consideration within the stipulated period, the decree would become inexecutable or otherwise stand rendered ineffective. It has further been contended that no conceivable advantage could accrue to the petitioner/decreed-holder by withholding or delaying the deposit of the balance sale consideration and, therefore, the delay, if any, cannot be construed in a manner so as to defeat the substantive rights crystallized in favour of the decreed-holder under a decree of specific performance. It is accordingly submitted that the indulgence of this Court is sought for extension of time for deposit of the balance sale consideration and for issuance of appropriate directions to the respondent/Judgment Debtor (JD) to execute the sale deed in terms of the decree.

4.1. In support of the aforesaid contention, learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Apex Court in *Anand Narayan Shukla vs. Jagat Dhari, 2026 INSC 463*. In the said case, a suit for specific performance of an agreement to sell had been decreed on 03.03.2007, directing the plaintiff to deposit the balance sale consideration within a period of one month. Since the amount was not



deposited within the stipulated period, both the Executing Court and the High Court proceeded on the premise that the decree had become ineffective and inexecutable. The Hon'ble Apex Court examined the issue as to whether such non-deposit would automatically result in rescission of the decree or whether time for compliance could be extended by the Court.

4.2. The factual matrix before the Hon'ble Apex Court disclosed that the decree-holder had moved an application on 03.04.2017 expressing readiness and willingness to pay the balance sale consideration of ₹57 lakhs and specifically averred that a legal notice had already been issued to the Judgment Debtor; however, the latter had neither accepted the amount nor executed the sale deed. Thereafter, on 18.07.2017, a formal execution application was instituted. However, no direction was issued by the Court for deposit of the amount until 23.04.2019. Prior thereto, the direction was only to tender payment to the Judgment Debtor, which had become impracticable as the Judgment Debtor had already challenged the decree by preferring an appeal and was unwilling to accept the amount. Subsequently, on 23.04.2019, the Executing Court for the first time directed deposit of the amount in Court and also issued notice to the Judgment Debtor. The time for deposit continued to be extended from time to time up to 26.11.2020, on which date the balance amount ultimately came to be deposited. Thereafter, although the first appeal came to be dismissed for non-prosecution on 06.11.2023, the Executing Court dismissed the execution petition on the ground that the decree was conditional in nature and the amount having not been deposited within one



month, the decree had become inexecutable. The revision petition assailing the said order also came to be dismissed.

4.3. The Hon'ble Apex Court, however, held that both the Executing Court as well as the High Court had failed to consider the matter in its proper perspective and in consonance with the settled principles governing the exercise of powers under Section 28 of the Specific Relief Act, 1963, and consequently set aside both the orders.

4.4. Learned counsel has further relied upon the judgment of the Hon'ble Apex Court in ***Ram Lal vs. Jarnail Singh, 2025 SCC Online SC 584***, wherein the legal position governing execution of decrees for specific performance was comprehensively summarized in the following terms:-

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44. *"The decree for specific performance is in the nature of a preliminary decree. Both the parties have reciprocal rights and obligations flowing out of the decree. The decree may fix the time limit for performance and in some cases may also provide for the consequences for non- performance within the time limit or the decree may even be silent on this aspect.*
45. *The decree enforces specific performance of the contract. The contract between the parties is thus not extinguished by passing of a decree for specific performance and it subsists despite the decree. Section 28 (1) of the Act makes it clear that the court does not become functus officio after the grant of the decree for specific performance and it retains its power and jurisdiction to deal with the decree till the sale deed is executed.*
46. *The court has been conferred with the power to extend the time to pay the amount and while taking into consideration the delay that is*



sought to be condoned by the plaintiff, the court does not adjudge the same like an application under section 5 of the Limitation Act, where each day's delay must be explained. The Court is given the discretion to extend the time, and the provision therefore seeks to provide complete relief to both the parties in terms of the decree for specific performance.

- 47. The power and jurisdiction granted under Section 28 (1) of the Act, enables the court to extend the period for payment of the purchase money if it has not been paid within the period allowed by the decree. It also enables the judgment debtor to seek for rescinding the contract for non-compliance of the directions given in the decree and while considering this application, the court is given the discretion to rescind the contract or in an appropriate case to even extend the time for paying the purchase money.*
- 48. It should also be borne in mind that appeal is a continuation of the original proceedings and the power of the Court to extend the time for depositing the amount can be exercised even in the appellate stage by the Court.*
- 49. In the considered view of this court, the Appellate Court, after deciding the appeal on merits, could have called upon the plaintiff to deposit the balance sale consideration by fixing a time limit. This would have at least given an opportunity to the plaintiff to fulfill his obligation. The non-payment of the balance consideration within the time period fixed by the Trial Court does not amount to abandonment of the contract and consequent rescinding of the same. The real test must be to see if the conduct of the plaintiff will amount to a positive refusal to complete his part of the contract. There must be an element of willful negligence on the part of the*



plaintiff before a court proceeds to invoke Section 28 of the Act and rescind the contract.”

4.5. It has further been observed by the Hon’ble Apex Court in ***Anand Narayan Shukla vs. Jagat Dhari’s*** case (*supra*) that the legal position governing the controversy in issue stands authoritatively crystallized and succinctly summarized in paragraph No. 33 of the judgment. The relevant observations are reproduced hereunder:-

33. *“Upon consideration of the provisions of Section 28 of the 1963 Act as also the decisions noticed above, in our view, the legal principles, inter alia, guiding the exercise of power under Section 28 of the 1963 Act could be summarized as under:-*

- (i) A decree for specific performance of a contract is in the nature of a preliminary decree and therefore, till the deed is executed pursuant to the decree, the Court that passed the decree is vested with the jurisdiction to either rescind the contract / the decree for non-payment/non-deposit within the stipulated period or extend the period for making such payment/ deposit.*
- (ii) Neither there is an automatic rescission of the contract/ decree for non-payment/ non-deposit within the period stipulated by the decree, nor there is an automatic extension of time by making such deposit, if the stipulated period for payment/ deposit has expired. However, where the decree stipulates that on failure to pay / deposit within the specified period, the decree shall stand rescinded or the suit shall stand dismissed, the decree is rendered inexecutable on failure to pay/ deposit.*



- (iii) *Prayer to extend the time for making deposit in compliance of the conditions stipulated in the decree may be made prior to, or even after, expiry of the period stipulated therefor.*
- (iv) *There is no form prescribed for making the prayer to extend the time to make such payment or deposit. Therefore, the prayer seeking permission to deposit the defaulted amount may be treated as one for extension of time to deposit. Such prayer may be made even orally while the Court seeks to address an application for rescission of the contract/ decree or when the decree is put for execution, provided the execution court is the one which passed the decree. However, if the decree is passed by the appellate court, such prayer/ application may be made before the court of first instance having regard to the provisions of Section 37 of CPC. Further, what is important is that such an application must be treated as an application in the suit and numbered accordingly.*
- (v) *As specific performance of a contract is an equitable relief, while considering the prayer for rescission of the contract/ decree, or for extension of time to make deposit in compliance of the decree, the Court must be guided by principles of equity. Therefore, while considering the prayer for extension of time to make deposit, to balance the equities, the the Court would have to consider the attending facts and circumstances of the case, the conduct of the parties and whether, by putting the decree holder to such additional terms and conditions, the judgment debtor could be adequately compensated for the delay.*
- (vi) *Though each day's delay in deposit need not be explained as in an application under Section 5 of the Limitation Act, the test is whether from the conduct of the decree holder it could be logically inferred*



that he had no intention to complete his part of the contract. If it appears so, and there appears an element of willful negligence on the part of the decree holder in complying with the terms of the decree, the Court may invoke its power under Section 28 and rescind the contract.

(vii) Under Order XX Rule 12 A of CPC, when a decree for specific performance of a contract for the sale, or lease of immovable property, orders that the purchase-money or other sum is to be paid by the purchaser or lessee, the Court must specify the period within which the payment shall be made. Therefore, where the suit for specific performance is dismissed by the trial court but decreed by the appellate court, or where the appeal against the decree for specific performance is dismissed on merits, the Court must fix the time within which such payment is to be made. If no time limit is fixed, the compliance thereof would have to be within a reasonable period. As to what would be the reasonable period would depend on facts of the case.”

5. The Hon’ble Apex Court has held that a decree for specific performance is in the nature of a preliminary decree and the Executing Court retains jurisdiction either to rescind the contract on account of failure to deposit the balance sale consideration within the stipulated period or, in an appropriate case, to extend the time for making such payment. It has further been held that there is no automatic rescission of the contract merely because of non-payment of the balance sale consideration within the prescribed period by the decree-holder. Equally, there is no automatic extension of time even. Where the decree stipulates that, upon failure to deposit the balance sale consideration within the specified period, the



decree shall stand rescinded and the suit shall stand dismissed. Question whether the decree has become inexecutable or whether time deserves to be extended is required to be adjudicated judicially by the Executing Court in the exercise of its powers under Section 28 of the Specific Relief Act, 1963.

5.1. It has further been observed that a prayer seeking extension of time for deposit of the balance sale consideration may be made either before or even after the expiry of the stipulated period, and any application seeking permission to deposit the amount would, in substance, be construed as an application for extension of time. While adjudicating upon the question of rescission of contract or extension of time, the Executing Court is required to be guided by the attending facts and circumstances of each case, the conduct of the parties, and the question as to whether the Judgment Debtor can be adequately compensated by imposing suitable terms and conditions upon the decree-holder. However, where the Court finds that the conduct of the decree-holder demonstrates deliberate inaction or wilful negligence in complying with the terms of the decree, the Court would be justified in invoking its powers under Section 28 of the Act and rescinding the contract.

6. In the present case, it is evident from the record that the decree attained finality after adjudication of the first appeal on 14.09.2017 and, in terms thereof, the petitioner/decreed-holder was required to deposit the balance sale consideration within a period of two months. However, the first execution petition came to be instituted only on 08.04.2021, after an



unexplained delay of approximately three and a half years, and even at that stage the decree-holder had failed to deposit the balance sale consideration before the Court. Thereafter, when the said execution petition was dismissed in default on 18.03.2025, no effort whatsoever was made by the decree-holder to seek restoration thereof. Subsequently, the present execution petition came to be filed on 12.08.2025 and even by that date the balance sale consideration had still not been deposited.

6.1. The learned Executing Court has specifically observed that for more than eight and a half years the decree-holder had shown complete indifference towards compliance with the decree and had failed to disclose even a single plausible reason explaining such inordinate delay. The learned Executing Court further recorded that the conduct of the decree-holder clearly reflected absence of readiness and willingness to obtain execution of the sale deed through due process of law. Though it was acknowledged that the Court possesses jurisdiction to extend the period for deposit of the amount, it was observed that the present case disclosed an apparent and wilful default on the part of the decree-holder, inasmuch as no application seeking permission to deposit the amount or extension of time had been moved for nearly eight years. Consequently, having regard to the peculiar facts and circumstances of the case, the learned Executing Court concluded that the decree-holder had forfeited his entitlement to seek execution of the sale deed through the process of the Court and had consequently lost the benefit of specific performance flowing from the decree.



6.2. Hon'ble Apex Court in ***Habban Shah vs. Sheruddin, 2026 INSC 451***, has it was held that where a decree-holder fails to deposit the balance sale consideration within the stipulated period without furnishing any cogent or satisfactory explanation, the contract may validly be treated as having stood rescinded. In the said case, in terms of the decree dated 31.10.2012, the balance sale consideration was required to be deposited within a period of three months and the Regular Second Appeal was ultimately dismissed on 12.01.2017. Although the decree-holder had initially instituted an execution petition on 04.03.2013, the same was dismissed for non-prosecution on 01.08.2014. A subsequent execution petition came to be filed on 08.01.2015, whereupon objections were preferred by the Judgment Debtor on 14.07.2015 primarily contending that the execution proceedings were barred in view of the failure to comply with the terms of the decree within the prescribed period. Although the objections came to be dismissed by the Executing Court vide order dated 07.09.2015 and the revision petition preferred before this Court was also dismissed vide order dated 24.03.2025, the Hon'ble Apex Court, while considering the matter in appeal, held as under:-

25. *"Now coming to the merits of the executability of the decree for specific performance dated 31.10.2012. It may be noted that the aforesaid decree is an executable decree but is a conditional decree. It provides for the execution of the sale deed by the defendant-appellant within three months, subject to the plaintiff-respondent depositing the balance sale consideration. Therefore, as stated earlier, the decree imposes reciprocal obligations upon both the*



parties. The obligation of executing the decree is upon receipt of the balance sale consideration. Therefore, by necessary implication for the purposes of executing the sale deed, the plaintiff-respondent had to deposit/pay the balance sale consideration within the time stipulated for depositing the aforesaid amount or for executing the sale deed, as the case may be.

26. Admittedly, in the present case, the plaintiff-respondent had not deposited the balance sale consideration within the period of three months stipulated under the decree. He had not even moved any application within the said time for seeking extension of time, either under Section 148/151 of the CPC or under Section 28 of the Act.

27. The interim order dated 17.12.2012 passed in first appeal preferred by the defendant-appellant, only restrained the parties from alienating the suit property. It nowhere prohibited the plaintiff-respondent from depositing the balance sale consideration as a prelude to the execution of the sale deed. Moreover, the aforesaid stay order elapsed on 25.01.2013 and the first appeal itself was dismissed on 11.11.2014. No doubt, the plaintiff-respondent had moved application on 05.03.2013 seeking extension of time for depositing the balance sale consideration but no orders were ever passed on the said application. The said application was filed after the stay in the first appeal had expired. Therefore, there was no application seeking extension of time within the period of three months stipulated under the decree.

28. Subsequently, plaintiff-respondent application to deposit balance sale amount on which the court permitted the deposit of balance sale consideration vide order dated 09.10.2015, in pursuance whereof the balance amount was deposited. This was done much after the first



appeal itself was dismissed. The question, therefore, is whether such permission to deposit or the deposit itself would ipso facto amount to condoning the delay in making the deposit and resultantly it amounts to deemed extension of time. The answer of the above proposition is an absolute 'No'.

29. In this connection, it would be profitable to refer to a decision of this court in P.R. Yelumalai v. N.M. Ravi⁴. In the said case the court was dealing with a similar issue where the decree holder failed to make the deposit within the time stipulated under the decree. The court refused to accept the plea that once the deposit is made and accepted by the court, though beyond the period stipulated under the decree, it would amount to deemed extension of time. It was held that the conditional decree is self-operative, therefore, non-compliance of any condition leads to automatic dismissal of the suit. In a case, the deposit is not made within the time permitted and no application moved for the extension of time within the said time, it would amount to failure to comply with the condition of the decree which leads to the automatic dismissal of the suit. In other words, it was held that the suit for specific performance of a contract stands automatically dismissed when the conditions under the decree are not complied with by the decree holder and he is not entitled to seek execution of the decree as it ceases to exist in the eyes of law due to deemed dismissal of the suit.

30. This being the position in law, the submission that the plaintiff-respondent had deposited the balance sale consideration with the permission of the court and the same was accepted and as such the condition stands complied with, cannot be accepted.”



6.3. It was further observed by the Hon'ble Apex Court in ***Habban Shah vs. Sheruddin's case (supra)*** that the principles governing the exercise of jurisdiction under Section 28 of the Specific Relief Act, 1963 are to be applied having due regard to the facts and circumstances of each individual case, and that the conduct of the decree-holder assumes considerable significance while determining whether equitable relief ought to be continued or denied. The Hon'ble Apex Court further held as under:-

35. *"In view of the ratio laid down in P.R. Yelumalai (supra) that the suit for specific performance of contract stands automatically dismissed, no sooner than the condition contemplated under the decree is not complied with, coupled with the fact that there is no mandatory requirement of moving an application for rescinding a contract in terms of Section 28 of the Act in view of Prem Jeevan (supra), we are of the opinion that the plaintiff- respondent having not only failed to deposit the balance sale consideration within the time stipulated under decree but also having failed to move any application for extension of time within the time permitted disentitled himself from executing the decree. There is neither automatic extension of time nor condonation of delay in making the deposit. The decree ceases to exist due to non-compliance and becomes inexecutable."*

6.4. The Hon'ble Apex Court, upon an exhaustive consideration of the legal principles governing the issue, ultimately crystallized and summarized the governing propositions of law by recording the following conclusions:-

39. *"The above discussion leads us to the following conclusions:*



- i. *The decree passed in a suit for specific performance is in the nature of a preliminary decree.*
- ii. *Since the decree of a specific performance is in the nature of preliminary decree, the Court passing the same does not become functus officio as soon as the decree is passed but retains control over the decree even after the passing of the decree till the sale deed is executed or the decree is rendered inexecutable.*
- iii. *Section 28 (1) of the Act provides for depositing or paying the balance sale consideration within the time allowed or to seek recession of the contract in the event of default even though the decree of specific performance has been granted.*
- iv. *Sub-Section (4) of Section 28 of the Act bars a separate suit for any relief which can be claimed in the same suit by moving an application under Section 28 of the Act.*
- v. *The power of the Court under Section 28 of the Act is discretionary and can be exercised on equitable consideration. The exercise of such discretion must be equitable to both the sellers and purchasers.*
- vi. *The default, if any, subsequent to decree for the specific performance resulting in the recession of contract has to be decided having regard to the broad terms of Section 28 (1) and Section 28 (4) in exercise of equity jurisdiction so as to give quietus to the dispute; and*
- vii. *It is not mandatory to move an application under Section 28 and that the Court in the given circumstances is not powerless to treat the contract as having rescind it for non-compliance of the condition.”*



7. Applying the aforesaid principles to the facts of the present case, it is evident that the decree-holder remained completely inactive for an inordinately long period and failed to demonstrate any bona fide explanation for such prolonged non-compliance with the terms of the decree. The record clearly reflects that no steps whatsoever were taken for more than eight years either to deposit the balance sale consideration or to seek extension of time from the competent Court. Such prolonged and unexplained inaction unmistakably demonstrates a lack of due diligence and reflects adversely upon the conduct of the decree-holder in pursuing the relief of specific performance.

7.1. The learned Executing Court has, therefore, rightly observed that the indulgence of the Court in extending the period for compliance was not warranted in the peculiar facts and circumstances of the case, particularly when the time stipulated under the decree had attained significance and there existed an extraordinary delay of more than eight years in fulfilling the conditions embodied therein. Since equitable relief under the provisions governing specific performance is discretionary in nature and necessarily dependent upon the conduct of the party seeking such relief, the decree-holder, by his own inaction and wilful default, disentitled himself from claiming any equitable indulgence.

7.2. Accordingly, this Court finds no illegality, perversity, jurisdictional error, or material irregularity in the order passed by the learned Executing Court allowing the objections preferred by the respondent/Judgment Debtor. The impugned order does not suffer from any



infirmity warranting interference in exercise of the supervisory jurisdiction of this Court. Consequently, the present petition, being devoid of merit, is hereby **dismissed**.

8. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall also stand disposed of by necessary implication. In view of the conclusions recorded hereinabove, no separate or independent orders are required to be passed in relation thereto, the same having been rendered wholly infructuous and academic in nature.

22.05.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No