

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

2025:PHHC:011379



CR-6638-2024

Date of decision: 27.01.2025

SOMESH ALIAS SOMESH RANA

..Petitioner

Versus

GULAB SINGH (DECEASED) THROUGH LRS. & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vipul Aggarwal, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. Judgment debtor No.1 assails the correctness of two different orders passed by the Executing Court on 20.12.2018, while dismissing his objection petition and permitting the decree holder to deposit the balance sale consideration.
2. The decree holder filed a suit for specific performance of agreement to sell, which was decreed on 15.02.2012. The direction was issued to judgment debtor No.1 to execute the sale deed within a period of three months on receipt of remaining sale consideration of Rs.1,50,000/-. Judgment debtor No.1 filed the appeal, which was dismissed on 04.09.2015.
3. The concluding part of the First Appellate Court's order reads as under:-

"I have given my anxious consideration to the rival contentions of both Ld counsel, I have meticulously seen the case file and the judgment beside perusing the lower court record, and despite reading the entire, I could not find any ground to reverse the findings of the ld. Trial Judge, which are well reasoned and are supported by ratio of law. Hence finding no merit in this appeal the same is dismissed with cost. Decree-sheet be prepared accordingly. Judgment passed by the Trial Court is



upheld. The appellant/defendant no.1 is directed to execute the registered sale deed of his share being 480/2887 in favour of the legal heirs of deceased/respondent Gulab Singh etc on payment of remaining sale consideration being Rs. 1,50,000/- within the period of two months from passing of this judgment, failing of which the respondent Gulab Singh etc shall be at liberty to get this judgment executed. A copy of this judgment along with lower court records be remitted back to the learned lower court. Appeal file be consigned to the records after due compliance.”

4. Judgment debtor No.1 did not execute the sale deed, forcing the decree holder to file the execution petition on 02.11.2015. Judgment debtor No.1 filed objections on the ground that decree holder has failed to comply with the decree. The Executing Court has dismissed the objection petition while noticing that there was no direction to the decree holder to deposit the amount. In fact, the direction was only to the judgment debtor No.1 to execute the sale deed on receipt of the amount.

5. In fact, there is a defect in the operative part of the judgment of the First Appellate Court. While decreeing plaintiff's suit for specific performance, a conditional decree is required to be passed while directing the decree holder to deposit the sale consideration within the time specified, however, in this case, no direction was passed.

6. Moreover, the decree holder filed the execution petition within two months from the date of the judgment of the First Appellate Court.

7. Hence, no ground to interfere is made out.

8. Dismissed accordingly.

January 27th, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE