

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:128275



(181)

CR-1418-2023
Decided on : 16.09.2025

Mohd.Ramzan (deceased) through his LRsPetitioner(s)

Versus

Jasvir Singh & anotherRespondent(s)

CORAM : HON'BLE MR.JUSTICE HARKESH MANUJA

Present: Mr.Arihant Jain, Mr.Kanish Jindal, Advocates, for the petitioners.

Mr.Tejinder Pal Singh, Advocate, for respondent No.1.

HARKESH MANUJA, J. (Oral)

By way of the present revision petition, challenge has been raised to the order dated 03.08.2019 (Annexure P-5), passed by the Learned Addl.District Judge, Sangrur.

2. Briefly stated; based on the Agreement to Sell dated 18.02.2009, executed between the parties regarding land measuring 7 kanals 12 marlas situated within the revenue estate of District Malerkotla, against total consideration of Rs.1,75,00,000/-, having paid a sum of Rs.45,00,000/- as earnest money, the respondents-plaintiffs filed a suit for specific performance. The said suit was decreed by the Learned Trial Court vide judgment and decree dated 01.07.2017 (Annexure P-1).

3. Aggrieved thereof, the petitioners presented First Appeal alongwith an application under Order 44 Rule 1 CPC, for permission to file

the appeal as “Indigent Persons”. The prayer made on behalf of the petitioners for treating them to be “Indigent Person”, was declined by the Learned First Appellate Court vide its order dated 14.05.2019 (Annexure P-4). Lateron, vide order dated 03.08.2019, on account of non-appearance of the petitioners before the Learned Trial Court, the impugned order was passed by the Learned First Appellate Court and the same reads as under:

“PRESENT:

None for appellant.

Sh.B.S.Goyal, Advocate, counsel for respondent no.1.

Respondent no.2 exparte.

Case called several time since morning. Now it is 12.10 pm but none has appeared on behalf of appellant. Let this application is dismissed under Order 9 Rule 8 of CPC. File be consigned to the record room.

Date of Order: 03.08.2019

(Jasjit Singh Bhinder)

ADJ, Sangrur (UID-PB0051)”

4. Learned counsel for the petitioners submits that since the petitioners were not having adequate resources and were “Indigent Persons”; they could not furnish the requisite Court fee and for the said reason, failed to appear before the Learned Trial Court on 03.08.2019; resulting into passing of the aforesaid order. He submits that now the petitioners are ready to deposit the Court fee so that their appeal can be heard and decided on merits in order to avoid any kind of prejudice to their rights. Learned counsel also points out that the present revision petition against the order dated 03.08.2019 could not be filed earlier as unfortunately, one of the brother, namely, Mohd. Ramzan expired on 12.09.2020 and thereafter, due to Covid-19 pandemic, some delay occurred in filing the present revision petition. Learned counsel further submits that in case of non-interference by way of the present revision petition, petitioners would suffer serious

prejudice to their rights in case the impugned order was allowed to stand, the petitioners would suffer serious prejudice to their rights and thus pray that the Learned First Appellate Court may be directed to decide their First Appeal on merits.

5. On the other hand, learned counsel appearing on behalf of the respondents submits that there has been intentional delay on the part of the petitioners in pursuing their First Appeal. He submits that initially, an application was filed for treating the petitioners as “Indigent Person”, however, even though the same was dismissed, the petitioners never bothered to deposit the Court fee and continued praying for extension of time. He further submits that the non-appearance of the petitioners on 03.08.2019 and the inordinate and unexplained delay in filing the present revision petition was willful and intentional and the motive of the petitioners was to harass the respondents and also to deny their rights under the judgment and decree dated 01.07.2017 passed by the Learned Trial Court. In such circumstances, learned counsel for the respondents submits that the present revision petition deserves to be dismissed.

6. I have heard learned counsel for the parties. I am unable to find substance in the arguments put-forth by learned counsel for the petitioners. The present revision petition is based on an Agreement to Sell dated 18.02.2009 with respect to land measuring 7 kanals 12 marlas situated within the revenue estate of District Malerkotla and having paid a sum of Rs.45,00,000/- as earnest money to the petitioners-defendants, the respondents-plaintiffs filed suit for specific performance against the petitioners-defendants which was decreed by the Learned Trial Court on 01.07.2017. Against the same, the First Appeal was preferred by the present

petitioners alongwith an application seeking leave to file the appeal as “Indigent Person”. Though the said prayer was declined by the Learned First Appellate Court on 14.05.2019, however, the requisite Court fee was not filed on behalf of the petitioners and the appeal was dismissed for want of prosecution by the Learned First Appellate Court on 03.08.2019. Thereafter, no application was ever filed before the Learned First Appellate Court seeking recalling of the order dated 03.08.2019 or making an offer to furnish the requisite Court fee and straightway the present revision petition was preferred before this Court on 20.02.2023, i.e. after a period of almost 3 ½ years. Though, one of the reasons expressed by the petitioners before this Court is the unfortunate demise of one of the brothers namely Mohd.Ramzan on 12.09.2020, however, with all sympathies towards petitioners, the said demise happened after one year of passing of the order dated 03.08.2019 by the Learned First Appellate Court and thus, cannot be taken as a justification for filing such a delayed revision petition. Moreover, the Covid, 19 pandemic was over by all means upto March, 2022, still, the petitioners took another year and a half in approaching this Court by way of present revision petition.

7. In such circumstances, it is apparent that the whole intent of the petitioners was just to cause delay towards availing of the benefits by the respondents-plaintiffs in terms of judgment and decree dated 01.07.2017 which was passed in their favour by the Learned Trial Court. Though normally the rights of the parties need to be adjudicated upon on merits rather than non-suiting them on the basis of procedural technicalities. However, such principles cannot be made applicable to the facts and circumstances of the present case wherein the petitioners-defendants have

never been diligent and vigilant of their rights and failed to approach the Learned First Appellate Court or even this Court for a period of more than 3 ½ years for seeking restoration of the First Appeal. The petitioners herein have not been able to even *prima-facie* show that their conduct in pursuing the litigation was ever *bona-fide*.

8. In such circumstances, finding no merit in the present revision petition, the same is hereby dismissed.

September 16, 2025
sailesh

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No