

(2010) 09 P&H CK 0378

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 916 of 2010

Rohtash Kumar and Others

APPELLANT

Vs

Karan Singh

RESPONDENT

Date of Decision: Sept. 7, 2010

Hon'ble Judges: Mahesh Grover, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Mahesh Grover, J.

The petitioner is aggrieved by the order dated 28.1.2010 whereby in a suit for specific performance initiated by the petitioners during the course of proceedings they have been directed to deposit the entire balance sale consideration in order to test their bona fides about the plea that they have raised that they were always ready and willing to perform their part of contract.

2. Learned Counsel for the petitioners states that this procedure could not have been adopted by the court below especially when the case was at its threshold and the opportunity to deposit the balance sale consideration should have been passed at the time of passing of the decree after testing the bona fides of the petitioners on the basis of material and evidence that would have come on the record during the course of proceedings.

3. No one has put in appearance on behalf of the respondent despite the fact that he was served and the matter was adjourned once over to enable him to come and join the proceedings.

4. After hearing the learned Counsel for the petitioners, I am of the opinion that the contention raised by the learned Counsel for the petitioners deserves to be accepted. The procedure as followed by the trial court in the impugned order is unjustified. The petitioners, who seek specific performance of an agreement to sell can be directed to deposit the entire balance sale consideration as a part of the

decree which may fructify in their favour in the event of their proving the case including the plea that they were ready and willing to perform their part of contract. But at this stage the petitioners cannot be forced to deposit the entire balance sale consideration. The impugned order is thus set aside, but the proceedings shall, however, go on in accordance with law.

5. The petition stands allowed.