

(2013) 09 P&H CK 0444

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 5577 of 2004 (O and M)

Ajaib Singh

APPELLANT

Vs

Angrej Singh

RESPONDENT

Date of Decision: Sept. 19, 2013

Citation: (2014) 173 PLR 402

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Judgement

K. Kannan, J.

The revision is against the order directing the defendant to execute the sale deed in favour of the plaintiff pursuant to an alleged undertaking given by the party before the Court. The suit had been for permanent injunction and the defendant is reported to have stated in Court that he was willing to execute the sale deed in favour of the plaintiff and he will abide-by the same. The suit was dismissed. When the defendant did not execute the sale in the manner allegedly undertaken by him in Court, the plaintiff moved an application u/s 94 CPC read with Order 38 Rules 1 and 2 for disobedience of the direction given by the Court. The Court passed the impugned order directing the defendant to execute the sale deed in favour of the applicant as per statement made in Court on 14.06.2003. I find the order passed by the court below to be grossly irregular and erroneous. The Court could not have converted the decree of dismissal as a decree for specific performance. The suit was not for specific performance. The suit was for a bare relief of injunction. Before the Court if the defendant was giving a statement, it would only be taken as giving the plaintiff some evidence of an undertaking to sell the property and use the same as an independent cause of action to enforce it, if there was a breach. There could not have been indeed even such a direction to execute the sale deed in the absence of the most material aspect for completion of sale viz., consideration for the sale. There could be no agreement without details of the property or consideration. There are several issues relating to enforcement of any agreement for specific performance such as readiness and willingness of the party, lawful consideration, the discretion

that could arise in a given situation of whether an agreement, even if it existed between parties, could be enforced u/s 20 of the Specific Relief Act. A direction for execution of a sale deed could not have been issued by the Judge, if there was no decree therefor. Even in the application filed complaining of disobedience, the plaintiff was not prepared to set out details of any negotiation of completed transaction obligating the defendant to execute sale deed. A Court's direction to execute sale deed was, therefore, incapable of performance for there was no details upon which the sale deed could have been executed. The order passed is wholly untenable and it would require to be set aside and accordingly set aside. The revision petition is allowed.