

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10388 OF 2017
(@SLP (C) NO.26908 OF 2016)

CHANDER PRAKASH AGARWAL

APPELLANT

VERSUS

SHRI RIDHKARAN PARASRAMPURIA
& ANR.

RESPONDENTS

O R D E R

Heard learned Senior Counsel for the parties.

Leave granted.

The appellant has entered into an agreement for sale with the respondents herein in respect of their 3/4 share in respect of land measuring 1.82 hectares. The total consideration which was agreed upon in respect of the said sale is Rs.6.70 crores. At the time of the agreement, the appellant had paid a sum of Rs.1.85 crores through cheques and the balance amount was agreed to be paid upon delivery of possession and registration of the property.

Some disputes arose because of which sale deed was not executed and the appellant filed a suit for specific performance which is pending in the Trial Court. Along with the said suit, the appellant also moved an application seeking temporary injunction that during the pendency of the said

suit the respondents herein should not dispose of or alienate suit property to the credit of any third party interest.

In this application, order was passed by the Trial Court granting the injunction, however, subject to the condition that the appellant shall deposit balance consideration of Rs.4.85 crores within a period of one week in a Nationalized Bank for a period of three years. The appellant, instead of depositing the said amount, challenged the said Order by filing a Miscellaneous Appeal No.2061 of 2013, which was disposed of by the High Court on 16.09.2013.

Perusal of this order reveals that the appellant had given an undertaking that if the suit is decreed he shall pay balance amount of Rs.4.85 crores with interest @12% per annum from the due date i.e. 01.06.2013 till the payment. On recording this statement, the order passed by the trail court was partly modified to the extent that it was not necessary to pay the amount in question. Thereafter, the appellant filed an application for modification of this order on the ground that though the High Court has directed disposal of the suit expeditiously and recorded that both sides would cooperate, the disposal of the suit was being delayed on account of non-cooperation by the respondents. This is denied by the respondents. The said application for modification was rejected by the High Court again vide impugned order dated 02.06.2016 and this order is the subject matter of this appeal.

When the matter came before us on 23.09.2016, learned Senior Counsel appearing on behalf of the appellant had made a statement in the Court that the appellant was ready to deposit the entire balance consideration of Rs.4.85 crores. Recording the statement, notice was issued and the appellant was allowed to deposit the amount. The said amount stands deposited with the Trial Court.

Insofar as injunction order granted by the Trial Court is concerned, that order still prevails.

The only question which is left is whether the amount should be condition precedent for such an injunction? No doubt that the Trial Court asked for deposit of balance consideration of Rs. 4.85 crores. This was challenged by the appellant and the appellant secured the order by making the statement that he shall pay the balance amount with an interest @12% per annum. Fact remains that now when the appellant has deposited the amount it should be accepted during the pendency of the case in the Trial Court.

The only dispute now remains is as to whether the appellant would be liable to pay the interest from the date of due till the deposit of the amount in the Trial Court?

Let the Trial Court consider this question and pass appropriate order for its final disposal.

The amount, in question, shall be kept in an interest bearing account, in the meantime.

With these observations, the appeal is disposed of.

We have been informed that the suit is at the final stage. Therefore, we request both the parties to cooperate in the disposal of the suit.

.....J.
[A.K. SIKRI]

.....J.
[ASHOK BHUSHAN]

New Delhi
August 04, 2017

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 26908/2016

(Arising out of impugned final judgment and order dated 02-06-2016 in SBCMA No. 185/2014 02-06-2016 in SBCMA No. 2061/2013 passed by the High Court of Rajasthan at Jaipur)

CHANDER PRAKASH AGARWAL

Petitioner(s)

VERSUS

SHRI RIDHKARAN PARASRAMPURIA & ANR.

Respondent(s)

(IA No.62923/2017-PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS and IA No.62924/2017-EXEMPTION FROM FILING O.T. and IA No.66610/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.66612/2017-EXEMPTION FROM FILING O.T.)

Date : 04-08-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Vikas Singh, Sr. Adv.
Mr. Yunus Malik, Adv.
Mr. Anish Maheshwari, Adv.
Ms. Saroj Bala, Adv.
Mr. Prashant Chaudhary, AOR

For Respondent(s) Mr. Harin P. Raval, Sr. Adv.
Mr. Abhishek Gupta, AOR
Mr. Rajesh Mahershi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the Signed Order.

Pending application(s), if any, stands disposed of.

(RASHI GUPTA)
SENIOR PERSONAL ASSISTANT

(MALA KUMARI SHARMA)
BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]