

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RA-CR-3-2021 in/and
CR-4701-2019(O&M)
Date of Order: 18.05.2022

ROBIN GUPTA

..Petitioner

Versus

M/S STRATFORD EDUCATIONAL MANAGEMENT PVT. LTD. AND
OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Puneet Jindal, Sr. Advocate
with Mr. Tajinder Singh, Advocate
for the review-applicant/respondent No.1 and 2.

Mr. Gaurav Chopra, Sr. Advocate
with Mr. Pankaj Katia, Advocate
Mr. Reshabh Bajaj, Advocate
for non-applicant/petitioner.

ANIL KSHETARPAL, J(Oral)

The review of the judgment passed by the Court on 23.12.2020,
has been sought.

Some facts are required to be noticed.

A suit for specific performance of the agreement to sell was
filed. It was the case of the plaintiff that the defendant entered into an
agreement to sell with respect to SCO No.370, Sector 8, Panchkula, on
08.06.2012. During the pendency of the suit, the matter was listed before the
Lok Adalat. All the parties suffered statement that the amount has been
received and the sale deed would be executed qua half the share of SCO
No.370, Sector 8, Panchkula.

The agreement to sell was executed with respect to the complete
SCO No.370, Sector 8, Panchkula. It was agreed by both the parties in the
aforesaid statements that the parties will get a consent decree passed on the

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basis of the compromise arrived at. Unfortunately, due to lack of diligence of the lawyer, the suit was dismissed as withdrawn on the same day i.e. 12.04.2014. The plaintiff filed execution petition which was dismissed on 03.12.2016. He, thereafter, filed contempt petition which was also withdrawn on 22.07.2019. Thereafter, he filed revision petition before this Court under Article 227 of the Constitution of India. The case was argued at length by two learned Senior counsels representing respondent No.1 and 2 in the revision petition. The Court found that even if the order passed by the Executing Court is required to be upheld, however, the High Court, in exercise of its jurisdiction under Article 227 of the Constitution of India, is to empowered to ensure substantive justice between the parties. Accordingly, the Court directed as under:-

“As an upshot of the aforesaid discussion, interest of substantial justice commands that order passed by the Lok Adalat should be set aside and the matter be remitted to the said Court for passing an appropriate order in view of terms and conditions of settlement, application filed by the parties for passing a consent decree and statements made by the parties in respect of settlement. Accordingly, order passed by the Lok Adalat is set aside and the matter is remitted to the said Court for passing an appropriate order, in accordance with law. The parties through their counsel are directed to appear before the Lok Adalat on 19.01.2021. The Lok Adalat shall dispose of the matter within one month of parties putting in appearance.

In view of what has been discussed hereinbefore, petition stands disposed of in the aforesaid terms, leaving the parties to bear their own costs. All pending miscellaneous applications shall be deemed to be disposed of.

Before parting with this order, it is pertinent to

note that during long experience as a member of judiciary, I have not come across even a single case where the Lok Adalat has passed an award in compliance of provisions of Regulation 17 and specimen annexed thereto. In order to avoid any legal complications, the Lok Adalats in the States of Punjab, Haryana and U.T. Chandigarh are directed to pass the award in compliance with the provisions of Regulation 17 of the Regulations.”

This Bench has heard the learned counsel representing the parties at length.

The learned Senior counsel representing the review applicant has submitted that the Court has approbated and reprobated in the same order. He submits that on the one hand, the Court treated the revision petition to be filed under Section 115 of the Code of Civil Procedure, 1908, whereas, on the other hand, the Court issued directions while exercising powers under Article 227 of the Constitution of India. He further submits that the applicant was never given notice before exercising powers under Article 227 of the Constitution of India. The learned counsel further submits that the revision petition was filed assailing the correctness of order the passed by the Executing Court on 03.12.2016, while dismissing the execution petition. He submits that the Court has travelled beyond the scope of the revision petition.

While hearing cases, the Court is faced with new challenges everyday. The Court is required to devise methods to ensure substantive justice between the parties in the peculiar facts of each case. It is not expected that a Constitutional Court would be constrained by procedural law unless there is specific prohibition. In order to do substantive justice, it is

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expected that the Court will rise above the hyper-technicalities in order to deliver justice in the real sense. The revision petition was filed under Article 227 of the Constitution of India which gives enough powers to the High Court to superintend over the working of the Courts and the Tribunals. Here is a case where the parties suffered a statement before the Lok Adalat and agreed to pray for passing a consent decree. Unfortunately, due to lack of proper advice, the aforesaid decree was not passed. Question is as to whether the Court is helpless in such a situation? In my humble opinion, the Court has sufficient powers not only under Section 115 of the CPC but also under Article 227 of the Constitution of India as well as under Section 151 of CPC which gives inherent powers to the Court to prevent the ends of justice from being defeated. In these circumstances, the argument that the Court has approbated and reprobated does not deserve acceptance.

The next argument of the learned counsel representing the applicant is with respect to the fact that he did not have notice of the method which would be adopted by the Court. It may be noted here that the revision petition was heard at length and the Court has passed a detailed judgment running into 19 pages. The Court has dealt with each and every aspect of the case. The applicant was represented by a Senior counsel.

In any case, this Court has once again given sufficient hearing to the applicant. Hence, the aforesaid contention is not required to be dealt with further.

The last argument of the learned Senior counsel representing the applicant is that it is beyond the scope of the revision petition to pass such directions. In my considered opinion, the Court has wide powers to

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pass appropriate directions in the facts and circumstances of the case in order to deliver justice.

Hence, no ground to review the judgment dated 23.12.2020, is made out.

Dismissed.

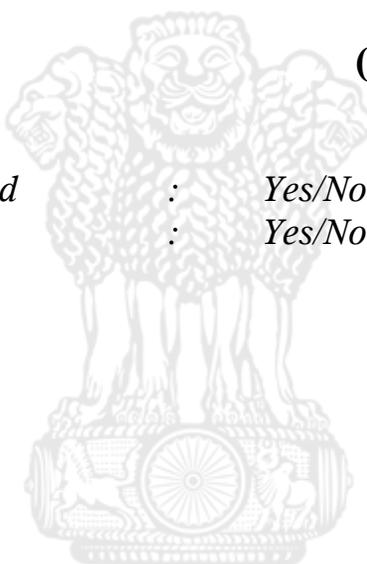
All the pending miscellaneous applications, if any, are also disposed of.

May 18th, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*



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