

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Jamal Khan Mandokhail
Justice Naeem Akhtar Afghan

Civil Petition No. 2293-L of 2016

(On appeal from the judgment dated 24.06.2016 of the Lahore High Court, Lahore passed in WP No. 22019/2016)

Abdil Ali.

... Petitioner

Versus

Additional District Judge, Gojra and others.

... Respondents

For the Petitioner: Syed Mansoor Ali Bukhari, ASC.
(through video link from Lahore)

For the Respondents: Not represented.

Date of Hearing: 02.09.2024.

ORDER

Qazi Faez Isa, CJ. Learned counsel representing the petitioner states that the petitioner had filed a suit seeking specific performance of agreement dated 17 April 2006 for the sale of a house for a total sale consideration of one hundred and seventy thousand rupees, of which eighty thousand was paid and the remaining balance amount of ninety thousand rupees was to be paid by or before 20 July 2007. Subsequently, through another agreement dated 18 October 2007 the date of paying the balance sale consideration was extended till 20 February 2008. The suit was dismissed, however, appeal before the learned Additional District Judge was allowed and the petitioner was directed to deposit in Court the balance sale consideration of ninety thousand rupees within fifteen days from the date of judgment, which was announced on 21 October 2014, failing which the suit shall be deemed to have been dismissed. The balance amount was not deposited within the stipulated period of fifteen days, therefore, the suit was dismissed.

2. However, the petitioner (despite the dismissal of the suit) filed execution proceedings, seeking the execution of a non-existing decree. The objections filed by the other side were accepted by the Revisional Court and its order was maintained by the High Court through the impugned order.

3. The learned counsel has not been able to point out any illegality in the two concurrent decisions. Despite the Appellate Court having granted extraordinary relief to the petitioner he had failed to pay the balance amount of sale consideration.

4. We may add that courts are not legally empowered to extend the time for depositing the balance sale consideration contrary to the terms of the agreement. And, if they do so they effectively rewrite the agreement between the parties. The only obligation of a buyer of a property is to make timely payment. However, if the seller does not receive payment the buyer must demonstrate that he was ready, able and willing to pay the same to the seller, failing which he must show that he had offered the payment and upon the seller's refusal to accept it had either prepared a pay order/demand of the said amount or had deposited the same in Court. One exception could be when the balance sale consideration constitutes a small portion of the total sale consideration. Learned counsel has not been able to point out any illegality in the impugned judgment to justify the grant of leave, which is accordingly declined and consequently this petition is dismissed.

Chief Justice

Judge

Judge

Islamabad:
02.09.2024
Rizwan

Approved for reporting