

Md. Alimuddin

Vs

Waizuddin and Another

SLP (C) No. 3177 of 1997

(K. Ramaswamy, S. Saghir Ahmed JJ)

19.02.1997

ORDER

1. The petitioner is the judgment-debtor. A decree for specific performance was granted by the trial court way back on 15-6-1982 in Title Suit No. 46 of 1976 which was reversed by the Appellate Court but restored by the High Court. Special leave petition was dismissed by this Court. Consequently, the decree for specific performance has become final. It would appear that the trial court directed the respondents to deposit the balance consideration of Rs. 500 and draft sale deed on or before 7-6-1982. An application for extension with the challan came to be filed and the same was ordered by the Court on 20-8-1982. The petitioner filed an application under Section 28(1) of the Specific Relief Act to rescind the contract. The trial court dismissed the petition. On appeal it was confirmed. In the revision also, the High Court confirmed the same. Thus, this special leave petition.

2. It is true, as pointed out by Shri Sinha, the learned counsel for the petitioner, that the trial court while extending the time mentioned that it is at the risk of the plaintiff but having exercised the discretion and allowed the respondents to deposit the balance consideration of Rs. 500 it amounts to the court having extended the time. The respondents have complied with the original direction contained in the decree of 7-7-1982. The courts below, therefore, have rightly exercised the discretion in extending the time for compliance. We do not find any illegality in the exercise of the power. The SLP is accordingly dismissed.