

**THE HIGH COURT OF MADHYA PRADESH  
MP No.702/2019**

**Sanjay Bhargava @ Raju Bhargava Vs. Smt. Munni Devi and  
others**

**Gwalior, Dated :01/04/2019**

Shri P.S. Gurjar, Advocate for petitioner.

Shri Sumant Mishra, Advocate for respondents.

This petition under Article 227 of the Constitution of India has been filed against the order dated 20/12/2018 passed by 12<sup>th</sup> Civil Judge, Class-I, Gwalior in Civil Suit No.28A/2013, by which the application filed by the petitioner under Order XIV Rule 5 CPC has been rejected.

2. The necessary facts for disposal of the present petition in short are that the respondents have filed a suit for eviction against the petitioner on the ground that they have purchased the property in dispute. In the year 2013, certain amendments were carried out by the parties. On 7/5/2015 the respondents filed the original copy of the sale deed by which the suit property was purchased by them. Thereafter, the petitioner never filed an application under Order XIV Rule 5 CPC for framing of additional issue and the plaintiffs' evidence was over and when the defendant's evidence was on the verge of completion, then an application under Order XIV Rule 5 CPC has been filed. The said application has been rejected by the trial court.

3. Challenging the order passed by the court below, it is

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submitted by the counsel for the petitioner that there is a specific averment in the written statement that since the sale deed was executed on 11/1/2012, therefore, the suit filed before registration of the sale deed is not maintainable. It is submitted that there is a specific averment to that effect in paragraph 7 (c) of the written statement.

4. *Per contra*, it is submitted by the counsel for the respondents that although the additional issue can be framed at any stage of the suit, but the petitioner is always trying to delay the proceedings. The suit was filed in the year 2010 and when it has reached the final stage, then an application has been filed deliberately, so that the entire matter can be reopened.

5. Heard learned counsel for the parties.

6. Neither the petitioner nor the respondents have placed the copy of the registered sale deed dated 11/1/2012 on record. Thus, it is not clear that whether the sale deed was executed and registered on the same day or it was executed on an earlier date and was registered on 11/1/2012. The suit for eviction on the ground that they have purchased the property was filed by the respondents in the year 2010. *Prima facie* it appears that the sale deed was executed prior to filing of the suit, however, the same was got registered on 11/1/2012.

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7. The moot question for consideration is that:-

“What would be the effect of subsequent registration of the sale deed and whether the sale deed would come into existence only after registration of the same or it would have the effect from the date of execution?”

8. Section 47 of the Registration Act reads as under:-

**“47. Time from which registered document operates.-** A registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.”

9. From the plain reading of Section 47 of the Registration Act, it is clear that the registered document shall operate from the date from which it would have commenced to operate, if no registration thereof had been required and made, and not from the date of its registration. Therefore, under the facts and circumstances of the case, the date of registration of the sale deed is not material, but the date of execution of the sale deed is material. In absence of copy of sale deed, this Court is of the considered opinion that the trial court did not commit any mistake in rejecting the application under Order XIV Rule 5 CPC, because it is not the case of the petitioner that the sale deed was also executed on the date of registration only. As no jurisdictional

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error could be pointed out by the counsel for the petitioner, accordingly, the order dated 20/12/2018 passed by 12<sup>th</sup> Civil Judge, Class-I, Gwalior in Civil Suit No.28A/2013 is affirmed for different reasons.

10. The petition fails and is hereby **dismissed**.

**Arun\***

**(G.S. Ahluwalia)  
Judge**