

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CAPP No.33 of 2010 (O&M)
Date of decision: 31.3.2011

Prem Sagar Gupta.

-----Appellant.

Vs.

M/s Punjab Wireless Systems Ltd.

-----Respondent

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**

Present:- Mr. Ashok Aggarwal, Sr. Advocate with
Mr. Padam Kant, Advocate
for the appellant.

ADARSH KUMAR GOEL, J.

1. This appeal has been preferred under Section 483 of the Companies Act, 1956 against the order of learned Company Judge dated 19.8.2010.

2. The respondent is a company in liquidation. The appellant filed an application before the learned Company Judge stating that he had entered into an agreement to purchase the property of the company in liquidation and had paid an advance but the company failed to complete the transaction. The appellant filed a suit for injunction against transfer of the property to anyone other than him which was dismissed. Appeal against the said decree was dismissed in default but the appellant filed an

application for restoration which was pending. Since neither the amount advanced by the appellant had been returned to the appellant nor sale deed executed, the Official Liquidator was liable to be directed to execute the sale deed.

3. Learned Company Judge dismissed the application holding that in absence of sale having been completed in favour of the appellant and seeking of relief of specific performance, direction for execution of sale deed sought in the application could not be granted.

4. We have heard learned counsel for the appellant.

5. Learned counsel for the appellant submits that the learned Company Judge should have transferred the proceedings in the application for restoration of appeal against the dismissal of suit for mandatory injunction to this Court. In absence of disclaimer by the Official Liquidator, the appellant was entitled to refund of the advance or execution of sale deed in his favour.

6. We are unable to accept the submission.

7. The scope of application moved before the learned Company Judge was only to consider the prayer for execution of sale deed, which prayer could not be granted in absence of appropriate proceedings for relief of specific performance or any concluded transaction. The advance could also not be ordered to be returned to the appellant on the basis of application moved.

8. We, thus, do not find any ground to interfere with the impugned order. The appeal is dismissed. It is, however, made

clear that the appellant will be at liberty to seek such other remedy as may be available to him in accordance with law.

(ADARSH KUMAR GOEL)
JUDGE

March 31, 2011
ashwani

(AJAY KUMAR MITTAL)
JUDGE