

107

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

CR No.1785 of 2015

Date of decision: March 18, 2015

Parkash Singh @ Pargash Singh

.....Petitioner

Versus

Bhan Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sukhdeep Parmar, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 11.02.2015 (Annexure P-5), whereby objections moved by the respondents No.2 and 3 in execution proceedings, were allowed.

Learned counsel for the petitioner has submitted that the auction was conducted in the year 2007. Infact, respondent No.1 had suffered a collusive decree in favour of respondents No.2 and 3, his grand-sons. Petitioner-decree holder had purchased the property-in-question in auction proceedings.

Petitioner had filed suit for recovery against the respondent No.1 on the basis of pronote and receipt. Suit filed by the petitioner was decreed. In execution proceedings, land in question was attached and was put to auction.

Respondents No.2 and 3 filed their objections claiming that

infact, they were the owners of the property in question and the judgment-debtor had no concern with the said property. It was further pleaded by respondents No.1 and 2 that at the time of auction of the land in question, they were minor.

Petitioner had filed the suit in the year 1998, whereas vide judgment and decree dated 18.01.1996, respondents No.1 and 2 were held to be the owners in possession of the land in question. Thereafter, the respondent No.1 challenged the decree dated 18.01.1996 and he said suit filed by respondent No.1 was decreed on 03.01.1998. However, the said judgment and decree was set aside by the Appellate Court vide judgment and decree dated 03.01.1998. Thus, at the time of auction of the land in question, judgment-debtor was not the owner of the land in question and had no concern with the said land. The land in question was attached and sale warrants were issued in terms of entries in the Jamabandi for the year 1996-1997. Apparently, in the revenue record, passing of the judgment and decree dated 18.01.1996/03.01.1998 had not been incorporated. Due to this reason, the land in question was put to auction, as in the revenue record, judgment-debtor was shown to be the owner of the land in question.

Since the judgment-debtor was not the owner of the property in question at the time of attachment of the land in question as well as at the time of auction of the land in

question, the learned executing Court had rightly allowed the objections filed by the respondents No.2 and 3.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

March 18, 2015

m.singh