

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 226 of 2014
Date of decision :November 26, 2015

Smt. Sushma Rani

..... Petitioner

Versus

Shanti Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Munish Bhardwaj, Advocate
for the petitioner.

Mr. O. P. Hoshiarpuri, Advocate
for respondent Nos. 2 to 5.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order dated 30.11.2013 (Annexure P-5) whereby the execution petition filed by the respondent-plaintiff, seeking recovery of ₹1 lac, ordered in a suit filed for specific performance of the agreement to sell. The trial court issued fresh proclamation/schedule regarding the sale of property of the judgment debtor.

Mr. Munish Bhardwaj, learned counsel appearing on behalf of the petitioner submits that the property in question is not owned by the judgment debtor. The property bearing No.NF-47 was owned by Mool Raj. After death of Mool Raj-father in-law of the petitioner, 1/5th share devolved upon the husband of the petitioner-

Ramesh Chand as per family settlement. The judgment debtor alone was not in power to sell the same.

He further submits that the decree holder has obtained the decree by playing a fraud. The judgment debtor neither possessed any immovable property nor she has even house hold articles, therefore the impugned order is not sustainable.

Mr. O.P. Hoshiarpuri, learned counsel appearing on behalf of the respondent-decree holder submits that the objections at the hands of the judgment debtor tantamounts to going behind the decree. Once the judgment and decree of the trial court has attained finality, the judgment debtor cannot be allowed to set up pleas. In case, the judgment debtor is not owner of the property, the third party objections can be invited but the objections at the hands of the judgment debtor are/were not maintainable.

I have heard learned counsel for the parties and appraised the paper book.

The grievance of the judgment debtor that he is not owner of the property but only 1/5th share has fallen to the share of his husband pales insignificant but the fact remains that the judgment debtor is not owner, it will be the actual owner who will be aggrieved of the order, therefore, the Code of Civil Procedure prescribes a procedure for filing objections, if any, by the third party. The judgment and decree of the trial court cannot be thwarted/prevented in the manner and mode adopted by the judgment debtor.

Once the judgment and decree of the trial court has attained finality, it was incumbent upon the decree holder to execute

the order, by following due procedure of law, which has already been initiated.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits.
Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

November 26 , 2015
archana