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

CR No.3006 of 2015

Date of decision: July 28, 2015

Nirmal Kaur

.....Petitioner

Versus

Mohan Lal and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Munish Gupta, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 09.03.2015, whereby, objection petition filed by the petitioner, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner had constructed her house after purchasing the plot and the same was being used for residential purposes. Hence, warrant of possession could not be issued of the said premises.

Respondent No.1 had filed suit for specific performance of agreement to sell. Suit filed by the plaintiff was decreed by the trial Court and the appeal filed by the petitioner against the said decree was dismissed. Now, appeal filed by the petitioner is pending in this Court, but the operation of the decree passed by the trial Court has not been stayed. Petitioner filed his objection petition in execution

proceedings initiated by respondent No.1. The executing Court while dismissing the objection petition filed by the petitioner, has observed as under:-

“The ld. Counsel for the objector/Judgment Debtor No.2 contended that she after purchase the plot in question from Gian Chand has constructed her residential house, hence the decree is un-executable. But this contention of ld. Counsel for the objector/Judgment Debtor No.2 is not forceful. Perusal of the file reveals that objections earlier filed by objector on the ground that she has filed RSA before Hon'ble High Court, has already been dismissed and after that sale deed was executed in favour of the decree holder through the Court by appointment of Local Commissioner. Plea or any type of Objection regarding raising residential house in the suit property has not been raised by Nirmal Kaur, while contested the main suit as well as at the time of execution thereof. Moreover, she has not placed any documents regarding construction of residential house, rather when warrant of possession was issued by the Court, she has taken objection on one pretext or other, just to create hurdle and to delay the execution proceedings and it is a delaying tactics. From the discussion made above, this Court is of the opinion that there is no impediments in executing the decree dated 15.09.2010 and it is well settled law that executing court cannot go beyond the decree and therefore objections raised by the Judgment Debtor No.2 that judgment and decree are not executable, is not tenable. All these contentions have already been dealt with while passing the judgment and decree dated 15.09.2010. Therefore,

the additional objections filed by the Objector/Judgment Debtor No.2 is hereby dismissed accordingly.

Now to come upon 09.04.2015 for filing reply to the application for attachment of amount of Rs.10,000/- and warrant of possession be also issued for the date fixed.”

The reasons given by the executing Court while dismissing the objection petition filed by the petitioner are sound reasons and call for no interference.

Dismissed.

**(SABINA)
JUDGE**

July 28, 2015
mahavir