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

CR No.3034 of 2015

Date of decision: May 06, 2015

Mahan Singh (since deceased) through his LRs

.....Petitioners

Versus

Jai Kishan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Akshay Kumar Goel, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 06.01.2015, whereby issues were framed for adjudication qua the objections filed by respondent Nos.1 to 4.

Learned counsel for the petitioners has submitted that the suit filed by Mahan Singh for specific performance of agreement to sell dated 03.01.1991, was decreed in his favour. Earlier, objections were filed by the mother of judgment-debtor Roshan Lal and the same were dismissed on 14.12.2005. Thereafter, Ved Parkash son of Roshan Lal and Urmila Devi wife of Roshan Lal-judgment debtor filed objections and the same were dismissed on 19.02.2011. Now, the present objections have been filed by respondent Nos.1 to 4 on 30.03.2011 claiming that they were bonafide purchasers . In fact, the objections filed by respondent Nos.1 to 4 were liable to be dismissed as the objections filed by their vendors (Ved Parkash and Urmila Devi) had been dismissed.

Learned executing Court while coming to the conclusion that issues were liable to be framed qua the objections filed by respondent Nos.1 to 4 has held as under:-

“After giving my thoughtful consideration to the rival submissions and documents on record, this Court is of the considered opinion that there is specific allegations levelled by the objectors that they are bona fide purchasers in possession of the property in question that they have derived their title from Smt. Urmila Devi and Ved Parkash who were never part and parcel of the civil suit proceedings between the decree holder and judgment debtor nor were aware about the said proceedings and that even as per the revenue record Smt. Urmila Devi etc. were mentioned in the relevant column of the revenue record and there was no source from which the present objector could have come to know about the pending litigation between the decree holder and judgment debtor. Besides, the objectors have specifically alleged that there is collusion between the present decree holder and judgment debtor in view of the statement suffered by Sh. Rajesh Kumar, (i.e. successor-in-interest of the present decree holder) in a case titled as Jai Kishan Vs. Urmila Devi, to the effect that no latest revenue record was relied upon by the decree holder by filing the execution petition. In other words, the present objectors have claimed that had decree holder seen the latest revenue record and they would have become aware about the right, title, interest of the present objectors in the property in question. Thus, in view of these facts and circumstances, this court is of the considered opinion that authorities relied upon by the learned counsel for the decree holder are distinguishable on peculiar facts of this case whereas, those relied upon by the learned counsel for judgment debtor, are clearly attracted in the facts of the present case and objectors do not prima facie appear to be mala fide or vexatious and therefore, the objectors are required to be given opportunity to substantiate the allegations. Accordingly, following issues are framed as under:-

1. *Whether the objectors had become the bona*

fide purchasers of the disputed property for valuable consideration and without notice after due enquiries, if so its effect?OPO

2. *Whether there is any collusion between the decree holder and the objectors, if so its effect?OPO*

3. *Whether the objections are liable to succeed?OPO*

4. *Whether the objections are the abuse of process of law?OPDH*

5. *Whether the objection petition is not maintainable?OPDH*

6. *Relief.*

Now to come up on 10.2.2015 for evidence of the objector. Witnesses be produced on that date.”

The reasons given by the executing Court while ordering the framing of issues qua objections filed by respondent Nos.1 to 4 are sound reasons. Admittedly, Urmila Devi and Ved Parkash from whom respondent Nos.1 to 4 had purchased property, were not party to the civil litigation pending between the decree-holder and the judgment-debtor. The case of the respondent Nos.1 to 4 is that the factum of pendency of civil litigation qua the suit property was not reflected in the revenue record, therefore, they were bonafide purchasers for consideration. In the facts and circumstances of the present case, the learned executing Court rightly held that the objectors were liable to be given an opportunity to substantiate their objections.

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

Dismissed.

**(SABINA)
JUDGE**

May 06, 2015

m.singh