

110

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

CR No.3255 of 2015 (O&M)

Date of decision: May 14, 2015

Sher Singh (since deceased) through his LR

.....Petitioner

Versus

Gurdev Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. O.P. Hoshiarpuri, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 03.03.2015.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Respondent No.1 had filed suit for specific performance for agreement to sell in question. The suit filed by respondent No.1 was partly decreed and respondent No.1 was held entitled to recover the earnest money. Against the judgment/decreed passed by the trial Court, both the sides preferred appeals and they were dismissed by the Appellate Court. Regular Second Appeal filed by the defendant is pending before this Court, but admittedly, no interim direction has been issued in the said appeal by this Court. Before the executing Court, petitioner filed his objections. The learned executing Court rightly dismissed the objections filed by the petitioner as the executing Court was liable to

execute the decree in the absence of any interim directions issued by this Court in appeal filed by the defendant. The plea taken by the petitioner that he had purchased the property in question from provincial Government and could not sell the same for twenty years was also rightly rejected by the trial Court as the said condition could not be said to be binding on the executing Court. It has been noticed by the executing Court that petitioner had mortgaged the land in question with the Bank.

Hence, no ground for interference by this Court, is made out.

Dismissed.

However, it is clarified that out of the attached land, only that much portion of the land be put to auction, which is sufficient to satisfy the decree.

**(SABINA)
JUDGE**

May 14, 2015
m.singh