

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4503 of 2013 (O&M)

Date of decision: 07.04.2015

Surinder Kaur and another

... Petitioners

versus

Balwant Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. J.S. Puri, Advocate for the petitioners.

Mr. Randeep Singh, Advocate for respondent Nos. 1 and 2.

Mr. Aseem Kataria, Advocate for respondent No.3.

K.Kannan, J.

The revision petitioner is the decree-holder who has put decree for specific performance for execution of the sale deed and sale for delivery of possession. The decree had been passed on 15.09.2012. Pursuant to execution, the sale deed has been executed by the Court on behalf of the judgment debtor on 28.03.2013. When the decree-holder applied for delivery, 3rd party objection was brought by a purchaser who was admittedly a purchase *pendente lite*. He claimed right to the very same property from her husband as power of attorney.

The petition cannot be maintained, since the power under Order 21 Rule 102 CPC could not be invoked for an adjudication regarding title to *pendente lite* purchaser. The counsel appearing on behalf of the respondent pleads with passion that the plaintiff has colluded with the judgment debtor and her family to defeat the right of the purchaser. According to him the decree itself is fraudulent, and therefore, he has a competency to file an application. I reject the application of the plaintiff to hold that the Executing Court was in the error in entertaining the application at the instance of the *pendente lite*

purchaser. If the 3rd parties are affected by the fraudulent action of the vendor or the judgment debtor, his remedy will lie for damages if he is so advised. There is simply no scope for person to resist the execution for delivery by referring to Order 21 Rule 102 CPC which is barred by law.

The impugned order is set aside and the civil revision petition is allowed.

07.04.2015
kv

(K.KANNAN)
JUDGE