

In the High Court of Punjab and Haryana at Chandigarh

CR No. 4757 of 2015

Date of decision: 30.07.2015

Shankar Lal (since deceased) through his LRs

.....Petitioners

Versus

Anoop Kumar Garg

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Y.D.Kaushik, Advocate
for the petitioners

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SABINA, J

Petitioners have filed this petition under Article 227 of the Constitution of India challenging the order dated 18.4.2015 (Annexure P1) .

Learned counsel for the petitioners has submitted that the judgment debtor-Shankar Lal had died on 2.5.2014. The judgment debtor was proceeded ex-parte vide order dated 29.8.2014. Since the objections filed by the legal heirs of the judgment debtor were still pending, the impugned order whereby sale deed had been ordered to be executed in favour of the decree holder was liable to be set aside.

In the present case, decree holder-respondent had filed suit for specific performance of agreement to sell dated 6.1.2006.

The suit filed by the plaintiff was decreed by the trial Court vide judgment/decreed dated 18.4.2011. In appeal filed by the defendant,

the appellate Court modified the decree to the extent that the plaintiff was entitled to receive ₹ 3,61,400/- along with interest @ 12% per annum. It was further ordered that in case, the defendant failed to make the payment of the said amount within a period of three months then the decreeholder/plaintiff could get the agreement specifically enforced as per law. Since the judgment debtor had failed to make the payment, plaintiff-decree holder initiated execution proceedings.

On 18.4.2015, the following order was passed:-

"Draft/proposed sale deed filed. An application for impleading the Lrs has already been filed. In view of order 22 Rule 12 same is disposed off as the order 22 Rule 12/order Rule 22 Rule 3,4 & 8 stands are not applicable in execution proceedings. Submission heard. Since the execution has already been filed and JD is already exparte v.o.d. 29.08.2014. In compliance of judgment and decree dated 07.09.2012 reader of this court is appointed as LC for getting the sale deed executed in favour of DH. JD has already failed to comply with the direction of dated 07.09.2012. Fee of LC is assessed Rs.2500/- payable by Decree Holder. He is at liberty to ask the DH either in orally or in writing before visiting in the office of Sub Registrar. He is also directed to go through the content of proposed sale deed and judgment and decree dated 06.09.2014 before getting the sale deed executed. Case is adjourned for awaiting the report for 29.05.2015."

The objections have been filed by the petitioners on 8.5.2015 (Annexure P4) . Thus, the objections had been filed by the petitioners after the passing of the order dated 18.4.2015. Hence, the impugned order calls for no interference as at the time of the passing of the said order, petitioners had not filed their objections.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA
JUDGE**

July 30, 2015
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