

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5901 of 2011 (O&M)

Date of Decision: October 01, 2015

Darshan Singh

...Petitioner

Versus

The Makhu Zamindara Cooperative Marketing-cum-Processing Society Ltd.
Makhu, Tehsil Zira and another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Jasmandeep Singh, Advocate,
for the petitioner.
Mr.R.K.Sharma, Advocate,
for respondent No.1.
Mr.R.D.Anand, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the impugned order dated 23.8.2011 (Annexure P-1), whereby the objections filed by the third party under Order 21 Rule 97 CPC, have been dismissed summarily. As per Order 21 Rule 101 CPC, any objections filed have to be decided as if it is a suit.

Mr.Jasmandeep Singh, learned counsel appearing on behalf of the petitioner submits that the trial Court was enjoined upon an obligation to frame the issues and ought to have afforded an opportunity to the parties to lead evidence in support of their respective claims/rival claims. Having not done so, the order is vitiated in law.

Mr.R.K.Sharma, learned counsel appearing on behalf of

respondent No.1 submits that the objections *per se* were not maintainable as both Darshan Singh and Harbhajan Singh-respondent No.2 are real brothers. It is an apparent collusion to thwart the execution of the judgment and decree obtained by the respondent-plaintiff.

I have heard the learned counsel for the parties and appraised the paper book.

Be that as it may, the fact remains that the petitioner is not a party to the judgment and decree. In essence, the objections filed under Order 21 Rule 97 CPC were treated as third party and the procedure for deciding the objections has already been prescribed under Rule 101 of Order 21 CPC. The trial Court has failed to adhere to the aforementioned provisions for the reasons that the objections have to be decided as if it is a suit. In essence, the trial Court was enjoined upon an obligation to frame the issues and afford an opportunity to the parties to lead evidence in support of their respective claims. Having not done so, the order is vitiated in law.

Accordingly, the impugned order is set-aside and the matter is remitted back to the trial Court to decide the objections afresh in accordance with the procedure prescribed under Order 21 Rule 101 CPC as early as possible, preferably within a period of six months from the date of receipt of certified copy of this order.

Revision petition stands allowed.

October 01, 2015
ramesh

(AMIT RAWAL)
JUDGE