

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

CR-6433-2015

Date of decision:29.9.2015

Ranjodh Singh

...Petitioner

Versus

Harjit Singh and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Harminderjeet Singh, Advocate for the petitioner

SNEH PRASHAR, J.

The present revision petition under Article 227 of the constitution of India has been filed for setting aside the order dated 09.09.2015 passed by learned Civil Judge, Junior Division, vide which, the objections filed by the petitioner in the execution application have been dismissed.

Respondent No.1-plaintiffs filed a suit for joint possession by way of specific performance of sale deed dated 12.6.2007 of land measuring 1B-12B-5-1/3B (Pukhta) situated in village Harnampura, District Ludhiana and sought direction to the petitioner -defendant to get registered the sale deed in their favour. They also sought relief of permanent injunction restraining the petitioner-defendant from alienating the suit property in any manner to anybody else except them. The suit was decreed in favour of the plaintiffs-respondents by learned trial Court

vide judgment and decree dated 17.9.2011. Aggrieved against the judgment and decree, petitioner-defendant filed first appeal, but the same was dismissed by learned First Appellate Court affirming the findings recorded by learned Trial Court. Thereafter, the petitioner approached this Court by filing Regular Second Appeal, which was also dismissed.

The submissions made by learned counsel for the petitioner have been heard.

It is submitted by learned counsel for the petitioner that the learned Executing Court has erroneously dismissed the objection petition of the petitioner without considering the fact that the petitioner and his cousin Kesar Singh son of Ajit Singh had purchased the suit property jointly i.e. 48 kanals, out of which, 8 kanals was purchased by the petitioner. In the year, 2006, Kesar Singh without his consent executed an agreement to sell the suit land to Harjit Singh and Darshan Singh-respondents. The respondents and Kesar Singh in connivance with each other, played a fraud upon him and after receiving the whole sale consideration, Kesar Singh executed a sale deed in their favour, but the petitioner neither signed the agreement sell nor received any sale consideration amount. The petitioner had never admitted his signatures on the sale deed during the trial.

Admittedly, the suit filed by the plaintiffs-respondent No.1 was decreed by learned trial Court. The findings recorded by learned trial Court were affirmed by learned First appellate Court as well as by this Court. The decree-holders/respondents filed an execution petition. The petitioner- judgment debtor filed objections which were dismissed

by learned executing court with the following findings:-

“It is apposite to mention that earlier the objections were filed by JD on 09.11.2012 which were dismissed vide order dated 29.04.2013. Thereafter the present objections have been filed to which this court finds no justification. All the grounds taken by JD in the present objections have already been adjudicated upon in the main suit as the same objections were taken by JD in the written statement filed in the main suit. It is well settled proposition of law that the executing court cannot go behind the decree and matters in issue already adjudicated upon cannot be reconsidered by the executing court. There is no merit in the objections so filed by the JD rather the sole purpose of filing of present objections seems to be to delay the proceedings of present execution. It is normally seen that the JD used to employ one or other tactics to delay the execution proceedings and to deprive the decree holders from the fruits of judgment and decree passed in their favour. In the present case, also the present execution is pending since 20.10.2011 and the JD has been filing objections one after the other to delay the proceedings of present execution. Accordingly, the objections in hand stands dismissed being devoid of any merit. A cost of Rs. 5000/- is imposed upon the JD for filing such frivolous objections causing delay in the execution proceedings. The cost so imposed upon the JD would be recoverable as

recovery of arrears of land revenue.”

Perusal of the order shows that the petitioner had raised exactly similar objections in his written statement while contesting the suit. The objections were obviously rejected by the Court as the suit of respondents -plaintiffs was decreed. The earlier objection petition filed by the petitioner which also contained identical objections was dismissed by learned executing Court vide order dated 9.11.2012. In the said set of facts the objection petition itself of the petitioner is not maintainable. It was rightly observed by learned executing Court that the objection petition had been filed by the judgment -debtor only to delay the proceedings.

In the above premises, finding no illegality or perversity in the impugned order warranting intervention by this Court, the present revision petition is hereby dismissed.

29.9.2015
gsv

(SNEH PRASHAR)
JUDGE