

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

CR No.6693 of 2015.

Date of Decision: 08.10.2015.

Saria Ram (deceased) through L.Rs. Kamajit @ Kamla and others

....Petitioners.

VERSUS

Amrik Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. D.R. Punia, Advocate for the petitioner.

SNEH PRASHAR, J.

This is a petition under Article 227 of Constitution of India for setting aside the order dated 29.09.2015 passed by learned Additional Civil Judge (Senior Division), Phillaur, vide which the objections filed by the petitioner were dismissed.

The facts are that a decree dated 29.04.2014 for recovery of an amount of Rs.4,11,476/- was passed against the predecessor-in-interest of the petitioners. Respondent-decree holder filed an execution petition during which the property inherited by the petitioners from the deceased was auctioned for satisfaction of the decree. As the warrant of possession was issued, the petitioners filed an objection petition on 02.09.2015. They

alleged that they are legal heirs of deceased Judgment Debtor (for short, "J.D.") Saria Ram, but said Saria Ram had no link with the property in question and they are the exclusive owners being their self acquired property. They denied that the property in question had been inherited by the petitioners from Saria Ram.

Considering the submissions made on behalf of the petitioners (legal heirs of judgment debtor Saria Ram) and respondent-decree holder, the objections were dismissed by learned executing Court vide impugned order dated 29.09.2015.

Aggrieved by the order, the petitioners have preferred the instant civil revision.

The submissions made by Mr. D.R. Punia, learned counsel representing the petitioners have been considered.

It is submitted on behalf of the petitioners that the property which was put to auction and is alleged to have been inherited by the petitioners is a residential house and not a commercial property. The decree holder had wrongly represented the same as commercial property by filing false photographs etc. Alongwith the instant revision, the petitioner has annexed a photograph to represent that the nature of the property was residential.

There appears no force in the argument of learned counsel for the petitioners. The sole photograph is not enough to link the property seen in it with the property in question. The findings of learned trial Court dismissing the objections filed by the petitioners are as under:-

“After the learned counsel for the parties and perusing the file, it is evident that the decree in question was passed on 29.04.2014 for recovery of Rs. 4,11,476/-. It is also admitted fact that objectors are the legal heirs of deceased Saria Ram. From the copy of jamabandi placed on th file, it is evident that mutation was sanctioned on the names of objectors after the death of Saria Ram, which shows that Saria Ram was owner of the property in question. So being the legal heirs of Saria Ram, as evident from the copy of ration card, they are legally liable to pay the debt of their father Saria Ram. It is not the self acquired property of the objectors. The property to be auctioned is a shop as evident from the photographs placed on the file. Thus the plea taken by the objectors that the property in question is their self acquired property is not tenable. Moreover the property has already been auctioned and Rs. 3,35,000/- had been deposited by the Naib Tehsildar in the bank. So at this stage, the objections are not maintainable and the same are dismissed.”

The auction has already taken place. It is evident from the order of learned executing court, the property in question is a shop and also that the petitioners have inherited the said property from their predecessor-in-interest Shri Saria Ram against whom there is a decree for recovery of an amount of Rs.4,11,476/- passed on 29.04.2014.

Accordingly, there being no error of law or perversity in the order of learned trial Court warranting intervention, this petition is dismissed.

(SNEH PRASHAR)
JUDGE

08.10.2015.
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