

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-6485-2014

Date of decision: 12.1.2015

Harjeet Kumar and others

..... Petitioners

Versus

Kaushalya and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

PRESENT: Mr. Sandeep Punchhi, Advocate for the petitioners.

R.P. NAGRATH, J. (ORAL)

Learned counsel for the petitioners has placed on record copy of the order dated 31.10.2014, passed by the Executing Court. The same be taken on record.

Dona Ram predecessor of petitioners No. 1 to 3 and petitioner No. 4 filed suit for specific performance of agreement to sell dated 27.3.2001 against respondents in respect of respect of land measuring 79 kanals 10 marlas, comprising of 55 kanals 8 marlas situated in the revenue estate of village Moriwala and 24 Kanals 2 marls, situated in the revenue estate of village Phoolkan, Tehsil and District Sirsa as fully detailed in head note of the plaint. The trial Court decreed the suit vide judgment and decree dated 11.12.2009 for alternative relief for recovery of an amount of ₹ 8,00,000/- along with interest @ 6% per annum and at the same time directed the plaintiffs to deliver back

possession of land measuring 24 kanals 2½ marlas to defendant Ram Chand predecessor of respondents No. 2 to 5 and to Kaushalya Bai respondent No. 1. The decree passed by the trial Court was maintained up to the Regular Second Appeal. The respondents have deposited the amount in terms of the decree granted by the trial Court and the respondents applied to the Executing Court for delivery of possession of the aforesaid property to them.

The petitioners filed objection petition to the effect that both the parties are co-sharers in the joint land and, therefore, the only remedy for the respondents was to get partition of the property by metes and bounds as actual possession from the joint *Khata* could not have been delivered.

I have heard learned counsel for the petitioners at considerable length and perused the paper-book.

There was a categorical assertion in the plaint instituted by the petitioners that on execution of agreement to sell, possession of the land agreed to be sold was also delivered to the petitioners for which ultimately the decree for handing back the possession to respondents was passed on 11.12.2009. The respondents have deposited the amount on the basis of alternative decree for recovery. Those findings have attained finality up to this Court in Regular Second Appeal. Even the execution stands satisfied as per order dated 31.10.2014, passed by the Executing Court by observing that Halqa Kanungo has made a report on the warrants of possession that possession of the land measuring 24 kanals 2½ malras has been delivered to the decree-holder/respondents.

In view of the order dated 31.10.2014, passed by the Executing Court, no indulgence of this Court would thus, be required at this stage, as the execution petition has been consigned as satisfied.

Dismissed.

January 12, 2015
rishu

(R.P. NAGRATH)
JUDGE