

**In the High Court of Punjab and Haryana at Chandigarh**

**C.R. No.8450 of 2014**

**Date of decision: September 29, 2015**

**Surjit Kaur and another**

**..... Petitioners**

**Versus**

**Sukhdev Singh and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Jai Bhagwan, Advocate for the petitioners.  
Mohd. Yousaf, Advocate for the respondents.

1. *Whether Reporters of Local Newspapers 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?*

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**KULDIP SINGH, J.(Oral)**

Impugned in the present revision is the order dated 03.11.2014 passed by learned Civil Judge (Jr. Divn.), Malerkotla vide which application of the present petitioners-defendants for rejection of the plaint under Order 7 Rule 11 CPC on the ground that suit is barred under

Order 21 Rule 92(3) of CPC was dismissed.

In nut shell, the controversy is that the suit was filed by the Punjab & Sind Bank-defendant against the present plaintiff and others for recovery by the sale of mortgage property. The suit was decreed. In the execution of the said decree, the disputed property was sold by way of auction on 03.04.2010. The sale was confirmed on 07.08.2010 and sale certificate was issued on 18.08.2010. The present petitioners are subsequent purchasers from the original auction purchaser and have stepped into the shoes of the auction purchaser. Now, the JD has filed the separate suit challenging the sale deed on the ground of fraud and misrepresentation.

I have heard learned counsel for the parties and have gone through the record of the case.

Now, the question would arise as to whether the present suit is barred or not. A perusal of the interim order shows that before the Executing Court, JD had put in appearance and was given opportunity to file objections, if any, but the same were not filed. Consequently, the sale was confirmed. Order 21 Rule 92(3) of CPC provides as under:

“No suit to set aside an order made under this rule shall be brought by any person against whom such order is made.”

Under Order 21 Rule 92(3), the JD could seek setting

aside the sale on account of irregularity and fraud. However, in the said execution, no such applications or objections were filed. Consequently, sale was confirmed. All the questions regarding execution and satisfaction of decree were to be decided in execution. A separate suit on the ground of irregularity and fraud is specifically barred under Order 21 Rule 92(3). Even in second suit, the Court is to see from the pleadings whether the suit is maintainable and if it is prima facie barred, the plaint is to be rejected. Since the plaint is barred by the said Rule, therefore, the revision is allowed. The plaint filed by the plaintiff-respondent Sukhdev Singh stands rejected.

**(KULDIP SINGH)  
JUDGE**

**September 29, 2015**

**jt**