

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

CR No.8801 of 2014

Date of Decision:-05.01.2015

Surinder Singh.

.....Petitioner.

Versus

Amar Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. K.K. Saini, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner-Surinder Singh is in revision aggrieved against the order dated 5.11.2014 (P-4) passed by the learned Civil Judge(Jr. Divn.) Dasuya whereby his objections filed in the Execution petition has been dismissed.

Learned Counsel for the petitioner has argued that the present property belongs to the maternal father of the objector Surinder Singh and a valid interest of the objectors is involved in the execution petition. It was further argued that the objector Surinder Singh has already filed a suit for declaration with a consequential relief of permanent injunction whereby he has challenged the judgment and decree dated 2.9.2004 from which the present execution petition arises on the ground of fraud and misrepresentation. Thus, prayer was made that the present execution petition should be stayed till the final decision of the said civil suit whose complaint has been attached as Annexure P-1.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and same deserves to be dismissed.

Perusal of the record reveals that the petitioner herein along with one Tej Kaur has filed objections(P-2) whereby the sole ground taken by them is that since a suit seeking declaration that the judgment and decree dated 2.9.2004 is result of fraud and misrepresentation has already been filed and the property in dispute actually belongs to maternal father of objector Surinder Singh, therefore, the execution petition should be stayed till the final decision of the said suit. However, this Court is of the opinion that this objection is not maintainable as the executing Court is executing the decree which already stands passed in the year 2004 and the ground of fraud and misrepresentation cannot be taken in the execution petition. Admittedly, suit has already been filed by the petitioner Surinder Singh challenging the judgment and decree dated 2.9.2004. If the petitioner is able to succeed in the said suit, all the proceedings would automatically fall. Thus, no stay can be granted in the present execution petition and the learned Executing Court has rightly dismissed the objections filed by the petitioner.

No other point was urged before this Court during the course of arguments.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

January 05, 2015
Vinay