IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.8804 of 2014
Date of decision: 16.11.2015

Dheeraj Wadhwa and others

.....Petitioners

versus

Punjab Financial Corporation and another

......Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sukhwinder Singh Sudan, Advocate for
Mr.Pankaj Bhardwaj, Advocate for the petitioners
Mr.M.S.Bedi, Advocate with
Mr.Manpreet Kaur, Advocate for the respondent No.1
Mr.Sanjeev Patiyal, Advocate for the respondent No.3

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?

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 1.12.2014 (Annexure P8), passed by the learned Additional District Judge, SAS Nagar Mohali, whereby third party objections filed by the present petitioners, namely, Dheeraj Wadhwa, Tilak Raj Sharma, Shiv Lal Yadav and Riyasat Ali stated to have been filed under Section 47 and under Order 21 Rule 100 and 101 CPC, were dismissed.

The claim of the objectors was that since the year 2000 they were in possession of the attached property under the tenancy of Jaswant Singh Bhullar, Director of the JD, therefore, they along with other occupants purchased the same by way of negotiation and paid

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10% of the sale price by way of demand drafts between the period 25.1.2014 and 28.1.2014 to the decree holder. Their offer for purchase was accepted by the decree holder subject to deposit of 25% of the amount of sale consideration by making adjustment of 10% already paid. Balance amount of 75% was to be paid as per negotiated terms and conditions. It was further stated that the attached property is an industrial unit measuring 5250 square yards, which was sold to the JD by GAMADA. It stood resumed by the GAMADA since long and GAMADA has lien over it after resumption. Decree holder had written to the Chief Administrator, GAMADA for recording change of ownership in favour of the decree holder by invoking the resumption order, after giving effect to the sale of the attached property. GAMADA in its letter dated 13.3.2014 agreed to revoke the resumption order and transfer the property in the name of the Punjab Financial Corporation (PFC) only on the conditions that PFC will adhere to the undertaking to the rules and regulations of Punjab Regional and Town Planning and Development Act, 1995 (in short, '1995 Act') as well as undertaking given vide letter No.1868-69 dated 4.3.2014 and to remain bound by the rules and regulations of 1995 Act. After accepting 10% of the sale consideration there is legal obligation on the part of the decree holder to get the issue settled, after getting the unit carved out for the facility by the purchaser to enjoy their independent ownership rights and have their independent water, electricity and sewerage connection so that they can enjoy their liberty to run their own business of their choice. They also requested the decree holder by way of written representation to get no objection

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certificate from GAMADA so as to proceed further for the execution of the agreement. Another representation was also submitted which was received in the office of Decree holder on 17.2.2004 but no action was taken.

Learned counsel for the petitioners has referred to authority of the Hon'ble Supreme Court in *Pattam Khader Khan v. Pattam Sardar Khan and another*, *(1996) 5 Supreme Court Cases 48* and has argued that the possession has to be taken within one year from the date of sale certificate which was not done. I am of the view that third party has nothing to do with the same. Only JD could take such objections.

Learned counsel for the petitioners has also relied upon authority of the Hon'ble Supreme Court in *K.R.Lakshminarayan Rao v. New Premier Chemical Industries*, *(2005) 9 Supreme Court Cases 354* and has pressed that when the objections are filed by third party, these have to be decided in the same execution and separate suit does not lie. There is no dispute with the said proposition of law. But all the disputes, which are strange to the decree and are based on separate agreement, creating separate rights, cannot be enforced in the same execution.

I have heard learned counsel for the parties and have also carefully gone through the file.

The objections filed by the present petitioners show that their claim is based on the fact that on the basis of their possession as tenant under the JD they have entered into an agreement of sale with Punjab Financial Corporation which is the auction purchaser and

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that the decree holder, who has now purchased the property, is not complying with condition of the agreement.

I am of the view that this has nothing to do with the present execution. The letter of the GAMADA dated 24.3.2015 (Annexure R1/3) shows that the industrial plot has since been transferred in the name of Punjab Financial Corporation, Chandigarh and they have been permitted to sell the plot. Whether the Punjab Financial Corporation can legally sell the plot by carving out separate plots is not to be decided during the present execution and this is subject to the rules and regulations of GAMADA and 1995 Act. In fact it appears that by filing objections, the present objectors want to force the Punjab Financial Corporation to carve out the plots from the said industrial plot and sell the same to them, separately, ignoring all rules and regulations of GAMADA and 1995 Act.

Therefore, these objections were rightly dismissed by the lower Court. No ground to interfere.

Consequently, the present revision stands dismissed.

The separate agreement cannot be enforced by way of filing objections in the present execution. If the petitioners have got any right under the agreement of purchase with Punjab Financial Corporation, it is always open to them to file a separate suit.

16.11.2015 **(Kuldip Singh)**
gk **Judge**

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