

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.10653 of 2015 (O&M)

Date of decision:10.12.2015

Dr. Gurvinder Singh & another

... Petitioners

vs.

Chandigarh Administration & others

... Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. B.S. Guliani Advocate for the petitioners.
Mr. Amit Arora, Advocate for respondent No.1 & 2.
Mr. R.S. Bhatia, Advocate for respondent No.3.
Mr. Rakesh Mohan Dutt, Advocate for respondents No.4 & 5.
...

S.J. VAZIFDAR, ACTING CHIEF JUSTICE.

The petitioners' grievance is that respondent No.2-The Estate Officer, U.T. Chandigarh is refusing to carry out the mutation in their favour despite the fact that they have a decree of a civil Court in their favour passed in a suit for specific performance.

2. Learned counsel appearing on behalf of respondent No.2 states that the only reason for the mutation not having been carried out is because respondent No.3-Punjab National Bank has objected to the same on the ground that the property is mortgaged in its favour to secure the repayment of the amounts due and payable to it by the original owner of the property.

3. The mortgage, if any, cannot be effected by the decree as the bank was not a party to the suit in which it was passed. There is no warrant for refusing to carry out the mutation on the basis that there is a mortgage. At the highest, respondent No.2 is at liberty to mention the mortgage in its records. Respondent No.3 has filed an O.A. before the D.R.T. for recovery of the amounts allegedly due to it by the original owner. Respondent No.3 is always at liberty to implead the petitioner in the O.A. and to seek appropriate reliefs in respect of the property.

4. In the circumstances, the writ petition is disposed of by directing respondent No.2 to carry out the mutation after examining the decree and needless to say, subject to all other terms and conditions being satisfied. We do not express any view as to whether all other terms and conditions for carrying out the mutation are satisfied or not. It is clarified that neither this order nor the mutation if carried out will affect the mortgage in favour of respondent No.3 in any manner whatsoever.

5. The writ petition is, accordingly, disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

10.12.2015
harjeet