

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

ESA 58 of 2014

Date of Decision: March 27, 2015

Mohinder Singh

.....Petitioner

Vs.

Prafool Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Rajbir Singh, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

Petitioner is a third party who had made an attempt to defeat the rights of the decree holder in a suit for specific performance, by taking up the plea that there had been an agreement of sale dated April 24, 2003 prior to the date of agreement to sell in favour of decree holder dated June 27, 2003. The claim of the petitioner is that mutation having been entered in his favour and he being in possession of the property on the basis of a sale deed dated December 19, 2007 executed by Local Commissioner appointed by the Court, the decree for specific performance in favour of the decree holder is not executable.

The Courts below have considered the objections of the petitioner and dismissed the objections, inter-alia on the following grounds:-

- i) The petitioner/ objector colluded with the judgment debtor and obtained an ex-parte decree to defeat the rights of the decree holder in a contested suit for specific performance; and
- ii) The petitioner is related to the judgment debtor through his wife's sister being son-in-law (of wife's sister).

I have heard learned counsel for the petitioner and carefully gone through the orders passed by the Courts below. Mere brining forth an agreement of sale of a date prior to the agreement of sale on the basis of which the decree holder has obtained decree, is not sufficient enough to defeat the rights of the decree holder only because a collusive ex-parte decree has been obtained by the petitioner to fraudulently defeat the rights of the decree-holder and will not be sufficient enough to nullify the execution of a valid decree obtained by the decree holder. I do not find any ground to interfere in the orders passed by the Courts below, as it is apparent that the entire process of putting forth a claim in the disputed property came into operation after the decree holder had obtained a decree in the year 2005.

Dismissed.

March 27, 2015
sanjay

(M.M.S.BEDI)
JUDGE