

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1835 of 2015
Date of Decision: April 25th, 2016

Sandeep Sharma & others

...Petitioners

Versus

Boota Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers 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?

Present: Mr.Sanjeev Goyal, Advocate,
for the petitioners.

Mr.Varun Jain, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Petitioners/third party/subsequent vendees are aggrieved of the order dated 27.11.2014 (Annexure P-1) and as well as the order dated 19.9.2014 (Annexure P-2).

Mr.Sanjeev Goyal, learned counsel appearing on behalf of the petitioners submits that vendor-respondent No.2 had, vide registered sale deed dated 21.7.2005, sold land measuring 5 Bighas 10 Biswas to the petitioners without disclosing that the subject matter of the land was subjected to an agreement to sell dated 21.5.2003. The proposed vendee instituted Civil Suit No.297 dated 9.9.2004 for specific performance of the aforementioned agreement to sell. The said suit has been decreed vide judgment and decree dated 19.4.2006 and as per the same, the sale deed dated 1.4.2008 has been executed in favour of decree-holder/respondent

No.1. Decree-holder/respondent No.2, in the execution petition, moved an application for setting-aside of the sale deed dated 21.7.2005 and another one alleged to have been executed in favour of Jaspal Singh. The trial Court, vide order dated 19.9.2014, observed that the sale deed dated 21.7.2005 shall not come in the way of the decree-holders. The aforementioned order was assailed by moving an application for recalling of the same. The Executing Court, vide order dated 27.11.2014 (Annexure P-1), disposed of the application granting liberty to the petitioners to take the remedy in accordance with law. He further submits that the findings rendered in the order dated 19.9.2014 would come in the way in case the petitioners seek remedy in accordance with law.

Mr.Varun Jain, learned counsel appearing on behalf of respondent No.1 submits that the execution petition has been consigned and the judgment and decree has been satisfied. The possession has already been taken and no cause of action survives in the present revision petition, much less revision petition is liable to be dismissed as infructuous.

I have heard the learned counsel for the parties and appraised the paper book.

The findings rendered by the Executing Court in the order dated 27.11.2014 read thus:-

“The learned counsel for the holder has suffered the statement to withdraw the present execution. The costs as imposed in decree and also in the appeal has not been paid to the decree holder as yet. It has been submitted by the learned counsel for the decree holder that the JD has not withdrawn the balance sale consideration amount. If that be the case then the DRO in this respect be issued in the name of decree holder for the payment of costs as assessed by the court from the balance sale

consideration amount. The present execution is accordingly dismissed as withdrawn. It is pertinent to mention here that the sale deed in favour of the decree holder is lying attached vide order dated 19.09.2002. This Court has already held that the sale deed no.3017 dated 10.12.2002 is a valid document as the same was of the agreement to sell. Therefore, let, the note in the sale deed in favour of the decree holder be given for the deduction of the ownership to the extent of 5 bigha 10 biswas from the ownership of the decree holder for future reference. File be consigned to the record room. The Reader of this Court is directed to give the note. The original sale deed be returned to the decree holder after proper incorporation as per rules and after placing thereof.”

I am of the view that the observations given in the order dated 19.9.2014 that the sale deed dated 21.7.2005 shall not come in the way of the petitioners in case they choose to take the remedy in accordance with law. As and when the petitioners assail the judgment and decree, the Court shall decide the controversy on its own merits uninfluenced with the findings rendered in order dated 19.9.2014.

With the aforementioned modification, the order dated 27.11.2014 is upheld.

Revision petition stands disposed of.

April 25th, 2016
ramesh

(AMIT RAWAL)
JUDGE