

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.4154 of 2006
Date of decision : 13.07.2016

Nachhatar Singh

...Petitioner

Versus

Ved Parkash and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

Mr. Preetwinder Singh Dhaliwal, Advocate
for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner-defendant No.2-subsequent vendee is aggrieved of the impugned order, whereby the land acquired by way of sale deed dated 05.11.1998 sought to be attached for recovery of the amount of earnest money by the plaintiff.

Mr. Tribhawan Singla, learned counsel appearing on behalf of the petitioner contends that respondent-plaintiff instituted the suit seeking specific performance of the agreement to sell and the sale deed aforementioned was also challenged. Both the courts below have upheld the sale deed but ordered for refund of the earnest money of Rs.94,500/- along with interest. Instead of pursuing the execution against the Vendor, the plaintiff has sought the attachment of the property which is subject matter of

the sale deed which is not the correct appreciation of the law and thus urges this Court for setting aside of the order.

Mr. Preetwinder Singh Dhaliwal, learned counsel appearing on behalf of respondent-plaintiff submits that since the sale deed was during the subsistence of the agreement, therefore, plaintiffs have right to seek the recovery of the amount by attachment of the land described in the sale deed, aforementioned. There is no illegality and perversity in the order. Order cannot be said to have been passed without jurisdiction.

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

Decree does not envisage or entitle the plaintiff to seek recovery of the amount by attachment of the land which is subject matter of the sale deed, aforementioned. The plaintiff can recover the amount of earnest money in accordance with law by seeking attachment of the sale of moveable and immoveable assets of Judgment Debtor otherwise also by taking the aid of provision of Order 21 Rule 37 of the Code of Civil Procedure but not in the manner and mode as indicated above.

For the foregoing reasons, impugned order seeking attachment of the property of petitioner-defendant No.2-subsequent vendee is hereby set aside.

In view of the aforementioned observations, revision petition stands allowed.

13.07.2016

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**(AMIT RAWAL)
JUDGE**