

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

**C.R. No.5182 of 2013
Date of Decision.12.07.2016**

Bhagwan Singh and others

.....Petitioners

Vs.

Baldev Kaur

.....Respondent

Present: Mr. Jasbir Rattan, Advocate
for the petitioners.

Mr. R.M. Sharma, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The petitioner-Bhagwan Singh is aggrieved of the impugned order whereby execution application under Order 21 Rule 32 read with Section 151 CPC for detaining the respondent in civil imprisonment and attaching his property for willfully and intentionally disobeying the judgment and decree dated 19.09.2008 passed in Civil Suit No.8 dated 08.01.2005 titled “Bhagwan Singh Vs. Gurbachan Singh” has been dismissed.

Mr. Jasbir Rattan, learned counsel appearing for the petitioners contends that the aforementioned suit was filed for setting aside the judgment and decree dated 24.01.1994 and the same was set aside vide judgment and decree dated 19.09.2008. Since, the respondent did not have a right and title in the property, he executed a sale deed dated 16.08.2010 bearing No.1622, in favour of Gurbachan Singh and thus, there is a violation of the judgment and decree whereby he was restrained from alienating the suit property.

Even if the aforementioned judgment and decree has been modified, relevant date for violation of the judgment and decree must be taken as the date of the sale. This aspect has not been appreciated by the trial Court and thus, urges this Court for setting aside the impugned order and remanding the matter back to the Executing Court.

Mr. R.M. Sharma, learned counsel appearing for the respondent submits that aforementioned judgment and decree dated 19.09.2008 was modified in Civil Appeal No.303 decided on 03.01.2014. Even otherwise, the petitioners-plaintiffs had also challenged the aforementioned sale deed by filing Civil Suit No.151 dated 17.07.2012 decided on 18.11.2015 and thus, no cause of action survives.

I have heard learned counsel for the parties, appraised the paper book and of the view that the judgment and decree dated 19.09.2008 was modified by the lower Appellate Court as noticed above. The operative part of the same reads thus:-

“In the result, impugned judgment and decree dated 19.09.2008 are modified to the extent that the plaintiffs are co-owners in joint possession of the suit land that until and unless, sale deed on the basis of judgment and decree dated 24.01.1994, Exhibits D1 and D2, respectively, is executed in favour of the defendant No.1-appellant, defendant No.1 could not alienate any share in the joint land and when sale deed on the basis of judgment and decree dated 24.01.1994 is executed in favour of defendant No.1, he would become co-sharer in the joint khewat and would be at liberty to alienate his share in the joint land. However, it is made clear that rights of the plaintiffs and defendant No.1, if any, in the joint land shall be subject to partition of the joint land amongst its co-sharers by metes and bounds. However, since defendant No.1 at the most would step into the shoes of co-sharer Lekh Ram, judgment and decree dated 24.01.1994

would have no effect on the rights of the plaintiffs.”

The factum of dismissal of the suit is not denied by Mr. Jasbir Rattan, counsel appearing for the petitioners. In view of the aforementioned facts, I am of the view that no cause of action survives for seeking execution of the judgment and decree dated 19.09.2008 and I do not think any ground is made for interfering with the order already passed by the Court below.

The order impugned is maintained and the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

July 12, 2016
Pankaj*