

Civil Revision No.5360 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.5360 of 2016

Date of Decision:22.8.2016

Kamlesh Rani Narang

--- Petitioner

vs.

Gurdev Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Ish Puneet Singh, Advocate
for the petitioner

Rekha Mittal, J.

The present petition has been directed against order dated 16.5.2016 (Annexure P-3) passed by the Civil Judge (Junior Division), Moga, whereby application filed by the petitioner under Section 151 of the Code of Civil Procedure (in short "CPC") for allowing demolition of triple

storey building constructed by her and to remove malba and other materials or to direct the decree holder to pay Rs. 25 lakhs as value/expenditure on construction, has been dismissed.

Counsel for the petitioner would contend that as the petitioner purchased the suit property on 20.3.2008 from Sh. Jaswinder Singh (judgment debtor) after a compromise was effected between the decree holder and Sh. Jaswinder Singh, vide written panchayati compromise dated 19.3.2008 and thereafter raised construction of a triple storey building, the petitioner may either be permitted to demolish the construction raised by her, remove the debris or in the alternative, the decree-holder may be directed to compensate the petitioner for the expenditure incurred by her in raising construction as decree-holder would be entitled to enjoy the construction on delivery of possession of suit property in pursuance of application for execution pending in the Court.

I have heard counsel for the petitioner, perused the paper book particularly the order impugned.

It is an undisputed position of the case that earlier the petitioner filed an objection petition on the premise that she has purchased the suit property, vide registered sale deed dated 20.3.2008 and is entitled to protect

her possession being a bona fide purchaser for value without notice. The objection petition was dismissed by the Executing Court vide order dated 2.12.2013, affirmed in appeal by the Additional District Judge, Moga on 12.3.2014 and the execution second appeal preferred before this Court captioned Kamlesh Rani Narang vs. Gurdev Singh and others was dismissed on 3.3.2016. The petitioner cannot be permitted to raise piecemeal allegations/objections against execution of the decree passed in favour of Sh. Gurdev Singh. If the petitioner wanted to raise an issue either with regard to her entitlement to get any compensation from the decree holder or to demolish the building existing at the spot with her right to remove the malba/debris, the petitioner was supposed to raise such an issue in the earlier objection petition that has been decided upto the High Court. It appears that the petitioner is trying her level best to delay execution of the decree which was passed as back as in January 2007 in regard to an agreement to sell dated 18.1.1997 in respect of plot measuring 06 marlas.

The Executing Court in para 6 of the impugned order has held that there is no evidence, document or anything on record from where the Court can come to the conclusion that triple storey building as alleged by the applicant/objector was constructed by her on the suit property. Counsel

has not advanced any meaningful arguments to assail these factual finding recorded by the Executing Court. This apart, as the petitioner purchased the property, vide sale deed dated 20.3.2008 after a decree has been passed in favour of Sh. Gurdev Singh, decree holder, being transferee pendente lite, she is not entitled to protection of law in the light of provisions of Order 21 Rule 102 CPC that says, “nothing in Rules 98 and 100 shall apply to resistance or obstruction in execution of a decree for immovable property by a person to whom the judgment debtor has transferred the property after institution of the suit in which the decree was passed or to the dispossession of any such person”. Analyzed from any angle, the petitioner has no case to point out any error much illegality in the impugned order warranting intervention in exercise of supervisory jurisdiction of this Court.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

22.8.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No