

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5791 of 2016 (O&M)

Date of decision:07.09.2016

Baldev Singh

... Petitioner

Vs.

Panno Devi Garg and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.S.Momi, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-decree holder is aggrieved of the allowing of third party objection vis-a-vis execution of the judgment and decree dated 03.09.2009 passed in civil suit no.322 of 2007, whereby relief of specific performance of the agreement to sell dated 03.08.2002 in respect of land measuring 200 square yards, has been sought.

Mr. S.S.Momi, learned counsel appearing on behalf of the petitioner-decree holder submits that objector -Indrawati allegedly filed the objection on the premise that she had already purchased the land out of the disputed land measuring 100 square yards vide sale deed dated 19.05.1998 and therefore, decree for the said property could not have been ordered. The third party objection has been filed which was allowed and the same was seriously objected, in essence, the provisions of Order 21 Rule 101 of Code of Civil Procedure have not been complied with and therefore, order under

challenge is not sustainable. At least, opportunity to lead evidence could have been given to the party for assertion in the objection and rebutting the same but not in the manner and mode.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that third party objection cannot be decided summarily, in view of the aforesaid provisions. If at all, there is any prima facie truth, the Court below should have issued a notice to the other party in support of his respective claim and counter claim, if any, but not in the manner and mode. If at all, the objector had purchased the land vide sale deed dated 19.05.1998, she was required to prove the same and rebut the same.

In view of the aforementioned observations, the impugned order being the against the statutory provisions of law, is hereby set aside.

I refrain myself from issuing notice of motion to other side/respondents as there is defiance of statutory provisions of law, much less, to defray the costs of litigation.

Accordingly, the revision petition stands allowed.

However, it is made clear that if any averment is incorrect, liberty is granted to move an application.

(AMIT RAWAL)
JUDGE

September 07, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No