

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

**Civil Revision No.6666 of 2015
Date of decision : 18.05.2016**

State Bank of India

.....Petitioner

Versus

Karnail Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Eklavya Gupta, Advocate for
Mr. Ashok Gupta, Advocate for petitioner.

Mr. Parteek Pandit, Advocate for respondent No.2.

DARSHAN SINGH, J.

The present revision has been preferred against the order dated 01.07.2015 passed by learned Civil Judge (Junior Division), Kapurthala, whereby the objections filed by the petitioner-Bank in the execution petition titled Satwant Singh Vs. Karnail Singh have been dismissed.

2. Respondent No.2 Satwant Singh filed the suit for possession by way of specific performance of agreement to sell dated 26.11.2009 executed by respondent No.1 Karnail Singh in his favour. The said suit

filed by respondent No.2 Satwant Singh was decreed by the learned trial Court vide judgment and decree dated 07.06.2012. In the execution proceedings, said Satwant Singh has deposited the remaining sale price as per the decree for payment to JD Karnail Singh respondent No.1. Said Karnail Singh has availed the Cash Credit Limit facility from the petitioner-Bank and also mortgaged the agricultural land belonging to him as a security of the loan facility. It is further alleged that the petitioner-Bank is to recover Rs.19,81,866/- plus interest from respondent No.1 Karnail Singh. It is further pleaded that decree holder Satwant Singh has deposited the remaining sale price amounting to Rs.9,03,000/- with the executing Court. The petitioner-Bank has sought that the said money should not be released to JD-respondent No.1. The objections/application filed by the petitioner-Bank was dismissed by the learned executing Court vide impugned order dated 01.07.2015.

3. I have heard learned counsel for the parties and gone through the paper-book carefully.

4. This fact is not disputed that so far no decree for recovery has been passed by any competent court of law/authority in favour of the petitioner-Bank and against JD-respondent No.1 Karnail Singh. Unless and until any decree is passed in favour of the petitioner-Bank, the application/objections moved by the petitioner-Bank were pre-mature. So, the learned executing Court was not legally competent to withhold the amount as it cannot be paid to the petitioner-Bank in the absence of any decree in its favour.

5. This fact is not disputed that the mortgage deed relied upon by the petitioner-Bank has been executed on 09.11.2012 i.e. after passing of the decree in favour of respondent No.2-decree holder Satwant Singh. The petitioner-Bank should have been vigilant at the time of granting the loan facility against the said property. However, the learned executing Court has made certain unwarranted observations with respect to the validity and legality of the mortgage No.2057 dated 09.11.2012 executed by respondent No.1 Karnail Singh in favour of the petitioner-Bank, which are expunged and will have no adverse effect on the rights of the petitioner-Bank.

6. With these observations, the present revision petition is without any merits and the same is hereby dismissed.

18.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**