

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.7427 of 2016

Date of Decision: 18.11.2016

Pirthi Singh

.....Petitioner

Vs

Naresh Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Yogesh Kumar Aneja, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has challenged the order dated 22.09.2016 (Annexure P/6) passed by the Additional District Judge, Fazilka as well as the order dated 21.05.2016 passed by Civil Judge (Sr. Divn.) Fazilka, whereby objections filed by the petitioner under Order 21 Rule 58 CPC in respect of execution and registration of sale deed *qua* property No.1003 measuring 20' x 60' were dismissed.

[2]. Brief facts are that the suit of Naresh Kumar respondent No.1/decreed-holder for specific performance of agreement to sell dated 03.05.2005 was decreed against respondent No.2/judgment-debtor vide judgment and decree

dated 02.06.2009. Appeal filed by the judgment-debtor Smt. Kailash Rani was dismissed by the lower Appellate Court vide judgment and decree dated 06.02.2010. Judgment-debtor filed Regular Second Appeal No.3554 of 2010, before this Court, which was also dismissed on 10.12.2012.

[3]. Decree-holder/respondent No.1 filed execution against the judgment-debtor for execution and registration of the sale deed through the process of the Court. In the execution, petitioner Pirthi Singh filed objections under Order 21 Rule 58 CPC on the premise that the decree-holder wants to get a sale deed executed in respect of property No.1003 whereas agreement between the parties was in respect of property No.1/222. Objector/petitioner claimed himself to be in possession in respect of residential house measuring 20' x 60' bearing No.1003 situated in Nai Abadi, Islamabad, Tehsil Fazilka. The objections filed by the petitioner were contested by respondent No.1/decree-holder. Executing Court dismissed the objections vide order dated 21.05.2016 and the appeal filed by the petitioner against the said order was also dismissed by the Additional District Judge, Fazilka vide order dated 22.09.2016. That is how the present revision petition came to be filed before this Court.

[4]. I have heard learned counsel for the petitioner at some length and have also perused the material on record.

[5]. The primary argument raised by learned counsel for the petitioner is that under the garb of decree, decree-holder wants to take possession of property No.1003 measuring 20' x 60' situated in Nai Abadi, Islamabad, whereas the agreement between the parties was pertaining to property No.1/222. It has been noticed by the Courts below that the objector/petitioner had also filed a suit for permanent injunction against the decree-holder on the same ground which was dismissed vide judgment and decree dated 20.10.2015 by Civil Judge (Jr. Divn.) Fazilka. The objections in question were duly answered in the said judgment and decree. The objector had appeared in the said suit and admitted the ownership of the judgment-debtor. The findings recorded by the civil Court would reveal that both the properties are the same and the objector had tried to create some confusion, just to stall the execution and warrants of possession.

[6]. The controversy also stood settled by the Civil Court in earlier litigation vide judgment and decree dated 20.10.2015. The objector never depicted the boundaries of property No.1003. By leveling the objections to be third party objections,

the objector/petitioner has tried to impress upon the Court that the third party objections should have been decided by following the procedure i.e. necessary issues should have been framed.

[7]. The Court is not obligated to follow regular procedure in every false and frivolous objections. Issues are not to be framed in every unfounded, false and frivolous objections filed by someone in execution of a decree. In considered opinion of this Court, the objections were rightly rejected by the executing Court and the lower Appellate Court was fully justified in dismissing the appeal against the order of dismissal of objections.

[8]. In view of aforesaid, no error of jurisdiction can be pointed out in the impugned orders passed by the Courts below. Revision petition is accordingly dismissed.

November 18, 2016

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No