

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8269 of 2014(O&M)
Date of decision : February 10, 2016

Santosh Rani and another

..... Petitioners

Versus

Bharat Raj and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Lokesh Sinhal , Advocate
for the petitioners.

Mr. Prateek Rathi, Advocate
for the respondents.

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?

Amit Rawal, J (oral).

The petitioner-decree holder is aggrieved of the impugned order whereby the objections filed under Order 21 Rule 97 CPC at the instance of the judgment debtor Nos. 2,4 and 5 have been tried as a suit. In essence, the following issues have been framed.

- “1. Whether the property in dispute of DH and the Objector is identical and if so to what effect? OPD
2. Relief.”

Learned counsel appearing on behalf of the appellant submits that the judgment and decree dated 27.7.2006 has attained finality after the judgment and decree is passed in a suit for

possession. The identity of the property was not disputed in the written statement filed by the respondents. He has drawn attention of this Court to the reference of pleadings in the judgment and decree which reads thus:-

“On merits, defendants pleaded that plaintiffs have no right, title and interest in the suit property. Alleged sale deed dated 4.7.1984 is null, void and binding upon the rights of the defendants either proprietary and possessory rights.”

Identical objections were dismissed vide order dated 8.1.2013 (Annexure P-8). Now again, an attempt has been made to thwart the judgment and decree by filing objections and the trial court vide impugned order dated 10.9.2014 framed the issues and called upon the parties to lead evidence. The said action on the part of the judgment debtor should not have been entertained and objections are liable to be dismissed.

Learned counsel appearing on behalf of the respondents-judgment debtors submits that expression “any person” under Order 21 Rule 97 CPC. In support of his contentions he has relied upon the judgment of Hon'ble Supreme Court in **Silverline Forum Pvt. Ltd.Vs. Rajiv Trust and another (1998) 3 SCC 723 and Tanzeem-e-Sufia Vs. Bibi Haliman (2002)7 SCC 50** and prays identity of the property is not in dispute. Rightly so, the trial court entertained the objections by trying it to be a suit by invoking the provisions of Order 21 Rule 101 CPC. Therefore, there is no illegality and perversity in the impugned order and prays for dismissal of the revision petition.

I have heard learned counsel for the parties and appraised the paper book and am of the view that it is a classic case where perpetual attempts have been made to thwart execution of judgment and decree *ibid*. The trial court while entertaining the objections has remained oblivious of the pleadings of the judgment and decree, much less attempted to go beyond the judgment and decree. Order 21 Rule 97 CPC deals with the objections viz-a-viz third party. All the aforementioned objections have been filed at the instance of third party. Whatever the grievance and grudge, the judgment debtors, they have already sought redressal of the same by filing appeal and the judgment and decree has attained finality upto the Hon'ble Supreme Court.

Accordingly, the impugned order dated 10.9.2014 is set aside. The revision petition stands allowed.

(AMIT RAWAL)
JUDGE

February 10 , 2016
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