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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-8775-2015

Date of Decision : May 10th, 2016

Suresh Seth

.... Petitioner

Versus

Banarsi Dass Sharma

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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?

Present Mr. Kuldip Sanwal, Advocate,
for the petitioner.

Mr. Vikram Chaudhary, Advocate,
for the respondent.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for quashing order dated 29.10.2015 [Annexure P/2] passed by Executing Court while dismissing the objections filed by the petitioner and the judgment dated 4.12.2015 [Annexure P/3] passed by lower Appellate Court and order dated 5.10.2015 [Annexure P/4] passed by the Executing Court.

2. Relevant facts of the case; that the main suit titled **Banarsi Dass Sharma Vs. Shri Suresh Seth** for specific performance was decreed by the Court of Civil Judge [Senior Division], Yamuna Nagar on 7.5.2014 and the appeal against the said judgment was dismissed by the Court of first Appeal vide judgment and decree dated 4.12.2015. The objection petition filed before the Executing Court was dismissed vide order

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dated 29.10.2015 [Annexure P/2] and the petitioner has challenged the judgments and decrees passed by both the Courts below as well as the order passed by the Executing Court on the ground that the same are illegal and are liable to be set-aside.

3. Learned counsel for the petitioner while assailing the said judgments and decrees and order passed by the Executing Court mainly took the plea that as per the judgments of Courts below, in a suit for specific performance, No Objection Certificate regarding land in question was to be obtained within two months, failing which the defendant would be liable to pay the earnest money to the plaintiff. The Executing Court could not go behind the decree and provide relief and condition regarding issuance of no objection certificate was not complied with. To support his contention, reliance has been placed on the judgments of Hon`ble Apex Court in **M/s Century Textiles Industries Ltd. Vs. Deepak Jain & Anr. 2009(2) R.C.R. [Civil] 614** and **Deepa Bhargava & Anr. Vs. Mahesh Bhargava & Ors. 2009(1) R.C.R. [Civil] 507**. He further submitted that both the Courts below failed to consider the facts and circumstances of the case and prayed that the judgments and orders, Annexures P/2 to P/4 are liable to be set-aside.

4. While arguing on this point, learned counsel for the respondent produced on record a letter dated 25.03.2015 issued by District Town Planner, Yamuna Nagar to the respondent and submitted that as per the said letter, there was no necessity for issuance of no objection certificate in respect of Khasra No. 47 which comes under the municipal limits of Municipal Committee, Yamuna Nagar. More so, the execution petition has already been dismissed and possession of the suit property has already

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been delivered to the respondent. The present petition is without any merit and the same be dismissed.

5. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that both the Courts below have already appreciated the evidence available on the file and recorded concurrent findings. The order, Annexure P/2, passed by the Executing Court dismissing the objections of the present petitioner has already dealt with the entire contentions raised by the present petitioner in this case. As regards issuance of no objection certificate, same is not required. Hence, the contention raised by learned counsel for the petitioner in the present petition is legally untenable. I have also gone through the judgments cited by learned counsel for the petitioner and found that the same are distinguishable because in the present case, no objection certificate was not required to be issued by the District Town Planner, Yamuna Nagar. More so, if at all the present petitioner was aggrieved of non-issuance of no objection certificate, then he should have got issued a legal notice to show his *bona fides* and willingness, but that has not been done. This fact shows that the petitioner is taking this plea just to avoid the execution of the decree which has been passed by the Court of competent jurisdiction and affirmed by the Court of first Appeal.

In view of the above, the present petition stands dismissed being devoid of any merit.

(SHEKHER DHAWAN)
JUDGE

May 10th, 2016
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