

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

**ESA No.12 of 2016 (O&M)
Decided on: 16.05.2016**

Attar Singh and others

....Appellants

Versus

Man Mohan Jain (since deceased) through his LRs. Ashish Jain and
others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Amit Kumar Goyal, Advocate
for the appellants.

REKHA MITTAL, J.

The present appeal has been directed against order dated 02.11.2015 passed by the Additional District Judge, Sonapat, upholding order dated 14.09.2015 passed by the Court of Civil Judge (Sr. Division), Sonapat, whereby the objection petition preferred by the petitioners was dismissed.

Counsel for the appellants, in view of averments raised in the objection petition and the arguments advanced before the Courts below has submitted that as the decree-holders/respondents purchased land measuring 24 kanal 03 marla vide sale deed dated 28.09.1965 and the Judgment-debtors are owner of remaining 10 marlas of land out of total land measuring 24 kanal 13 marlas, the decree-holders cannot execute the decree for possession against their co-sharer. It is further submitted that as some of the petitioners in the objection petition are the legal representatives of the Judgment-debtors (since deceased),

they are competent to maintain objections under Order 21 Rule 97 CPC being third party.

I have heard counsel for the appellants, perused the paperbook, the orders impugned and the various annexures appended with the appeal.

Man Mohan Jain and others filed a suit for possession of property measuring 24 kanal 13 marlas situated within the area of Village Sultanpur, District Sonapat. In the said suit, Guljari Lal son of Siri Chand, Randhir, Rai Singh, Attar Singh, Krishan Kumar sons of Lakhi Ram were arrayed as defendants. The suit was decreed by the Senior Sub-Judge, Sonapat vide judgment and decree dated 11.01.1993. Challenge to the judgment and decree passed by the trial Court remained unsuccessful as appeal preferred by Guljari and others came to be dismissed by the Additional District Judge, Sonapat vide judgment and decree dated 03.06.1993. There is no denial that the litigation initiated by Man Mohan Jain and others against Guljari and others claiming possession of land measuring 24 kanal 13 marlas has attained finality between the parties. As the decision in the litigation has terminated in favour of the respondents/decreed-holders, it is not within the domain of Executing Court either to reopen the matter much less to sit in appeal over the findings recorded by the trial Court duly affirmed in appeal. In this view of the matter, there is no merit in the contention of the petitioners that the objection petition preferred by the appellants was required to be decided after framing of issues and affording them an opportunity to adduce evidence. This apart, even if some mistake has

been committed while deciding the suit but so long as that mistake is corrected by a Court in appeal, the parties would be bound by the decision rendered by the trial Court. In this view of the matter, I do not find any reason to differ with the findings of the Courts below that the Executing Court cannot go beyond the decree and the Judgment-debtors are not entitled to reopen the matter in the execution proceedings.

The plea of the appellants that as some of the objectors are the legal representatives of deceased Judgment-debtors, they are to be treated as third party is misconceived and merits outright rejection.

No other point has been raised.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed.

16.05.2016
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(REKHA MITTAL)
JUDGE