

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 155 OF 2017**

Sayeed Naiyyar Hasan S/o Syd. Ibne Hasan, Aged About 70 Years Occupation Business, Proprietor, M/s New Taj Welding and Repairing Works and Raza Body Builders, R/o Bharkapara, Ward No. 25, Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

Santi Singh S/o Shri Raghuveer Singh, Aged About 23 Years, R/o Budhwaripara, Dongargarh, District Rajnandgaon Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Ali Asgar, Advocate

Hon'ble Shri Sanjay Agrawal, J.**Order On Board****07/09/2017**

1. This is the revision preferred under Section 115 of the Civil Procedure Code, 1908 (hereinafter referred to as 'CPC') by the judgment debtor- Sayeed Naiyyar Hasan against the order dated 11/08/2017 passed by the Executing Court in Execution Case No. 212-A/2001, by which, the application of the judgment debtor filed under Section 47 read with Order 21 Rule 97 and Rule 101 read with Section 151 of the CPC, has been rejected.

2. The undisputed facts of the case, are that, one Santi Singh the non-applicant herein instituted a suit for eviction with regard to the suit property admeasuring 1250 sq.ft. against the judgment debtor on the grounds enumerated under Section 12(1)(a) and (f) of the Chhattisgarh Accommodation Control Act, 1961. The said suit was registered as Civil Suit No. 212-A/2001 and was decreed by the judgment and decree dated 02/07/2003 on the grounds mentioned in the said application for eviction of judgment debtor Sayeed Naiyyar

Hasan. The decree-holder Santi Singh then initiated the execution proceedings on 19/11/2007 in pursuance to the said eviction decree passed on 02/07/2003.

3. During pendency of the execution proceedings, an application enumerated under Section 47 read with Order 21 Rule 97 and Rule 101 read with Section 151 of the CPC was made by judgment debtor and submitted therein that since the decree holder has already sold the entire suit property to different persons, therefore, under such circumstances, the execution proceedings as initiated by the decree holder deserves to be rejected.

4. After considering the said application, the Executing Court by its impugned order dated 11/08/2017 has rejected the same.

5. Being aggrieved, the judgment debtor has preferred this revision. Mr. Ali Asgar, learned counsel for the applicant/judgment-debtor submits that the order impugned as passed by the Executing Court without considering the contents made in the said application in its proper manner has committed an illegality in rejecting the same. He submits further that after considering the application filed by the purchasers certain directions were issued by the Executing Court upon rejecting their application to furnish the particulars of those sales. However, the said direction was not complied with by the decree holder, therefore, the execution proceedings ought to have been rejected by the Executing Court for non-compliance of the said direction. He submits further that during the pendency of that execution proceedings, the entire suit property was admittedly sold by the decree holder, therefore, there was no need to keep the said execution proceedings pending and, in such an eventuality the Executing Court ought to have rejected the same. He therefore, submits that the order impugned deserves to be set-aside.

6. I have heard the learned counsel for the applicant and perused the entire relevant papers annexed with this revision petition carefully.

7. Undisputedly, the suit for eviction was decreed in favour of the non-applicant/plaintiff/decreed holder- Santi Singh on 02/07/2003 passed in Civil Suit No. 212-A/2001. In pursuance to the said decree, an application for its execution was made on 19/11/2007, against the judgment debtor- Sayeed Naiyyar Hasan, the present applicant herein.

8. From perusal of the record, it is clear that the decree holder has already sold the entire property to three different persons by executing registered deed of sale dated 31/03/2008. However, merely upon the alleged alienation, it can not be said that the initiation of execution proceedings in pursuance to the eviction decree would come to an end. In any case, after purchasing the suit property from decree-holder as such, none of the purchasers have raised any objection with regard to the continuation of the said execution proceedings. Even otherwise, being a judgment debtor, the applicant was not at all entitled to raise such an objection. Although, the application of the purchasers as submitted by them under Order 22 Rule 10 read with Order 1 Rule 10 and read with Section 151 of the CPC was rejected by the Executing Court vide its order dated 23/09/2011 by directing certain directions to the decree-holder, but merely on the basis of its non-compliance, the execution proceedings as initiated by him can not be held to be set at naught. From any angle, it is difficult to hold that the order impugned rejecting the judgment debtor's alleged application filed under Section 47 read with Order 21 Rule 97 and Rule 101 read with Section 151 of the CPC suffers from any infirmity. Accordingly, the same deserves to be and is hereby affirmed.

9. In view of the forgoing discussion, this revision being devoid of merits deserves to be and is hereby dismissed at admission stage itself. There shall be no order as to costs.

Sd/-

(Sanjay Agrawal)
Judge

Yogesh