

CR No. 2398 of 2017

DECIDED ON: APRIL 21, 2017

GURDEV KAUR

.....PETITIONER

VERSUS

NASIB KAUR & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Shalender Kumar Saini, Advocate
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition, preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated March 02, 2017 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Division), Baghapurana passed in Execution No. RBT-757/02.07.2015 titled as ***“Gurdev Kaur & others vs. Nasib Kaur & others”***, whereby, objection petition preferred by Naresh Pal Kaur-respondent No.4, has been allowed.

The contention of learned counsel for the petitioner is that Naresh Pal Kaur-respondent No.4 is no more in picture. She has mainly relied upon the sale deed dated July 20, 1995, which is alleged to have been executed by Naseeb Kaur, Beant Kaur and Sushpal Kaur, daughters of Ginder Singh in favour of Malkiat Singh son of Gurdev Singh. An objection petition has not been preferred by afore-said Malkiat Singh. Thus, Naresh Pal Kaur-respondent No.4 has otherwise of no locus standi to prefer an objection petition to the execution application, especially in the circumstances that she is neither a

beneficiary nor affected party.

He further contends that in case sale deed dated July 20, 1995 is taken to be correct for the sake of arguments, even then, the shares which have been determined by the Executing Court are not proper. In fact, much more area comes to the decree holders regarding which a clarification is also required to be given by the Executing Court.

Keeping in view the afore-said submissions made by learned counsel for the petitioner, this Court is of the considered view that impugned order is not sustainable in the eyes of law, the instant revision petition is allowed and impugned order is set aside. Learned trial Court is directed to decide the objection petition afresh after hearing both the parties and after properly calculating the shares.

Needful be done within a period of two months from the date of receipt of certified copy of this order. Since, this order has been passed in the absence of respondents, if they feel aggrieved by this order, they are at liberty to approach this Court.

APRIL 21, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*