

CR No. 2474 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No. 2474 of 2017 (O&M)

Date of decision: 5.4.2017

Rajesh Singh

...Petitioner

Versus

Tejbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashwani Talwar, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition filed under Article 227 of the Constitution of India, is directed against the order dated 19.10.2016 (Annexure P-1), passed by the learned executing court, whereby objections raised by the petitioner, who is claiming himself to be a successor-in-interest of the judgment-debtor, were dismissed.

Heard learned counsel for the petitioner.

It is a matter of record that plaintiffs-respondents No. 1 to 3 filed a suit for permanent injunction, which came to be decreed by the learned trial court vide judgment and decree dated 31.1.2008 (Annexure P-3). Relevant part of abovesaid civil court decree dated 31.1.2008, available at page 41 of the paper book, reads as under:-

“It is ordered that the suit of the plaintiff is decreed with no order of cost. Defendant No.1 is restrained from raising any sort of construction over the specific killa No. 21/1 min south (1-2) the land in suit detailed in para

CR No. 2474 of 2017 (O&M)

No.3 of the plaint situated within the revenue estate of VPC Bhondsi Tehsil and District Gurgaon amount of the joint and un-partitioned land detailed and described in para No.1 of the plaint.”

Appeal filed against the abovesaid decree by Megh Raj-predecessor-in-interest of the petitioner, was dismissed vide judgment and decree dated 25.3.2009. No further appeal was filed and the abovesaid civil court decree dated 31.1.2008 became final between the parties. Plaintiffs filed their execution. Present petitioner claimed to have purchased some part of the suit property from one of the defendants namely Megh Raj, during pendency of the suit and thereafter, he became party to the suit, thus, he is one of the judgment-debtors.

The only argument raised by learned counsel for the petitioner is based on later order dated 19.5.2010 (Annexure P-4) passed by Assistant Collector 1st Grade, Sohna, to the effect that once appeal of Megh Raj-predecessor-in-interest of the petitioner against order of partition dated 15.4.1998 was dismissed by the Assistant Collector 1st Grade, the suit land ought to have been treated as already partitioned, as per earlier order dated 15.4.1998.

After hearing learned counsel for the petitioner at considerable length and giving thoughtful consideration to the contention raised, this Court is of the considered opinion that civil court decree dated 31.1.2008 (Annexure P-3) would not be deemed to have been set at naught by later order dated 19.5.2010 (Annexure P-4) passed by the Assistant Collector 1st Grade, Sohna. This is what the entire case of the petitioner.

Once after purchasing some part of the suit land, petitioner became party to the suit filed by the plaintiffs and decree dated 31.1.2008

CR No. 2474 of 2017 (O&M)

became final between the parties, objections filed by the petitioner were not even maintainable before the learned executing court. It is so said, because the objections had already been raised and were considered and declined by the learned trial court, while passing the decree dated 31.1.2008, which has already attained finality between the parties. In this view of the matter, it can be safely concluded that the learned executing court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. Since the impugned order has been found supported by sound reasons, it deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

5.4.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No