

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

**Civil Revision No.3040 of 2015 (O&M)
Date of Order: 14.09.2017**

Daljinder Singh

..Petitioner

Versus

Agyawati and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Toor, Advocate,
for the petitioner.

Mr. Pankaj Bali, Advocate,
for respondent no.1.

Mr. Amandeep Singh, Advocate, for
Mr. Respondent no.11.

ANIL KSHETARPAL, J (Oral)

This is a strange case where two decree holders are fighting for an amount of Rs.91,740/-.

Undisputed facts are that the petitioner Daljinder Singh filed a suit for specific performance of agreement to sell against Sajjan Singh. In this suit, the Court granted alternative relief to the plaintiff Daljinder Singh ordering refund of the earnest money along with certain interest against Sajjan Singh. Daljinder Singh, thereafter, filed an application for execution of the aforesaid decree, which remained pending.

A separate suit was filed by Smt. Agyawati for specific performance of the agreement to sell against the same Sajjan Singh. The aforesaid suit for specific performance of agreement to sell was also decreed against Sajjan Singh.

Smt. Agyawati in compliance with the aforesaid decree, deposited a sum of Rs.1, 25, 000/- with the Executing Court.

Daljinder Singh on coming to know that certain amount payable to Sajjan Singh has been deposited in execution of another decree, got the aforesaid amount attached to the extent of Rs.91,740/-. Ultimately the aforesaid amount was paid to Daljinder Singh-petitioner in the year 2011.

In the execution petition filed by Agyawati, the parties i.e., Agyawati and Sajjan Singh arrived at a compromise and Agyawati did not pursue her execution and requested that the amount deposited by her be released without realising that a part of the amount has already been paid to Daljinder Singh in a separate execution petition.

By way of an impugned order, the Executing Court has ordered that Daljinder Singh must re-pay the amount because the amount belongs to Agyawati. No order has been passed against Sajjan Singh, judgment debtor. The Court has chosen to give recovery rights to Daljinder Singh. There is no doubt that the amount is payable by Sajjan Singh. The decree in favour of Daljinder Singh-petitioner stands satisfied and consigned to the record. The execution petition filed by Agyawati has also been withdrawn. The Executing Court ought to have directed Sajjan Singh to re-pay the amount because ultimately the amount is payable by Sajjan Singh.

In view of the discussion made hereinabove, the order passed by the Executing Court dated 05.02.2015 is set aside.

Sajjan Singh is directed to re-pay the amount within a period of one month from today, failing which the Executing Court would be at liberty to execute the decree with respect to the amount paid to Daljinder

Singh i.e. Rs.91740/- by taking appropriate steps against Sajjan Singh.

The civil revision petition is disposed of accordingly.

September 14, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No