

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

CR No.4074 of 2017 (O&M)

Date of decision:2.6.2017

Maninder Kaur

...Petitioner

Versus

Shaimber Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.R.S.Dadwal, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 7.4.2017 (Annexure P-3) passed by the learned executing court, issuing warrants of possession in favour of decree holder, judgment debtor-petitioner has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

Respondent-plaintiff filed a suit for possession by way of specific performance of agreement to sell dated 1.1.2001. Suit was partly decreed by the learned trial court, vide its judgment and decree dated 15.5.2010, declining the primary relief of specific performance and allowing the alternative relief for recovery of earnest money along with interest. Plaintiff-respondent filed his first appeal, which came to be allowed by the learned first appellate court. Suit of the plaintiff was decreed in toto, granting primary relief of possession by way of specific performance of

agreement to sell dated 1.1.2001 vide judgment and decree dated 23.4.2013 passed by the learned District Judge.

This decree dated 23.4.2013 has attained finality. When the defendant-judgment debtor was not complying with the above-said decree by executing the sale deed in favour of the plaintiff-decree holder, execution application was filed. Sale deed in favour of decree holder has been executed by the order of the court, because the judgment debtor was not co-operating. Pursuant to execution of sale deed in favour of the decree holder, warrants of possession came to be issued by the learned executing court, vide impugned order dated 7.4.2017 (Annexure P-3). Having said that, this Court feels no hesitation to conclude that the learned executing court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

It is neither pleaded nor argued case on behalf of the petitioner that there was any stay order granted in his favour by any higher court. Decree has attained finality against the petitioner. During the execution proceedings, sale deed for the suit land has also been executed in favour of decree holder. Petitioner had been participating in the execution proceedings and he was not taken by surprise at any relevant point of this litigation. However, from the perusal of the impugned order, it would become crystal clear that the judgment debtor-petitioner had been trying to avoid the decree by misusing the process of court, taking the shelter of one or the other technicality, which is not permissible in law. Under these peculiar facts and circumstances of the case, it can be safely concluded that the learned executing court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

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. The impugned order has been found based on true facts of the case and it has also been passed, strictly in accordance with law. The impugned order is supported by sound reasons, because of which no fault can be found with it and the same deserves to be upheld, for this reason as well.

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 the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present civil revision petition stands dismissed, however, with no order as to costs.

2.6.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

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