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

**Civil Revision No.4535 of 2017 (O&M)
Date of Decision: 03.11.2017**

**Raghunath deceased through LR Surat Ram @ Surati
.....Petitioner**

**Vs
Ramesh and others**

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

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

RAJ MOHAN SINGH, J.

[1]. Petitioner has challenged the order dated 20.05.2017 passed by the Civil Judge (Jr. Divn.) Palwal whereby the objections filed by the petitioner in the execution were dismissed.

[2]. Brief facts are that the plaintiffs filed a suit for declaration and possession by way of redemption along with permanent injunction as a consequential relief in respect of two chunks of land. One chunk of land was in respect of 9 *Kanals* and another chunk was in respect of 9 *Kanals* 4 *Marlas*. Two suits were filed by the plaintiffs on the ground that the predecessor in interest were recorded as owners of the suit land. The defendants were recorded to be mortgagees in

possession. The mortgage was redeemed long ago. Smt. Bhagwani w/o Udai Singh was the original mortgagor, who had died and thereafter plaintiff being successor-in-interest came into picture.

[3]. In respect of land which is the subject matter of present revision petition, the trial Court decreed the suit vide judgment and decree dated 31.05.2011 and the same was upheld by the lower Appellate Court and the High Court. The execution is pending where the judgment-debtor has filed the present objections. In the second suit belonging to second chunk of land Regular Second Appeal is pending before the High Court in which *status quo* was granted. The possession by way of redemption was sought on the basis of mutation sanctioned on the strength of civil Court decree dated 15.06.1977 proving themselves to be the legal heirs of 7th degree of the husband of Smt. Bhagwani and on the basis of said status redemption was sought from the judgment-debtor. The suit was decreed. The trial Court decree was upheld by the lower Appellate Court as well as upto the High Court.

[4]. The objections filed by the judgment-debtor against the decree-holder, if tested on the merits of judgment and decree dated 31.05.2011, the same are not found to be maintainable. It has come on record that the appeal against the judgment and

decree dated 31.05.2011 was dismissed and was further upheld upto the High Court and that had attained finality. Mere pendency of Regular Second Appeal *qua* second chunk of land would not give any cause of action in favour of the objector to stall the execution of decree dated 31.05.2011 which has already attained finality.

[5]. The land involved in the present execution is total 9 *Kanals* which is comprised in *Khewat* No.345, *Khata* No.417, *Rect.* No.89, *Killa* No.23/4 (2-0), 24/1 (7-0), whereas in the pending appeal in the High Court the land involved is comprised in *Khewat* No.342, *Khata* No.413, *Rect.* No.55, *Killa* No.17/2 (3-1), 24/2 (3-18) total 6 *Kanals* 19 *Marlas* in *Khewat* No.343, *Khata* No.414, *Rect.* No.55, *Killa* No.13/2 (2-7), 14 (6-8), 17/1 (0-9) total 9 *Kanals* 4 *Marlas*. Apparently, the land involved in both the chunks are not over lapping in nature. The judgment-debtor having lost the substantive remedy upto the High Court cannot turn around to deny the fruits of decree by way of objections in the execution.

[6]. In view of aforesaid, this revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

November 03, 2017

Atik

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(RAJ MOHAN SINGH)
JUDGE