

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

CR No.6743 of 2017
Date of decision : 03.10.2017

Amit Vashishst

...Petitioner

Versus

Satish Kumar Kalra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Supriya Garg, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

The petitioner, claiming to be a third party objector, has filed this revision petition against the dismissal of his objection petition.

The Decree Holder had filed a suit for possession by way of specific performance of the agreement to sell dated 02.08.2004. The suit was decreed on 23.04.2011. The first appeal filed by the Judgment Debtor was dismissed on 17.01.2014. Regular Second Appeal filed by the Judgment Debtor was dismissed on 12.03.2014. Special Leave to Appeal was also dismissed on 05.12.2014.

During the course of the execution petition, the petitioner filed objection petition claiming that he is a subsequent agreement holder from the Judgment Debtor. Petitioner had filed a suit on 24.04.2014 for specific performance of the agreement to sell dated 04.04.2005. In other words, the suit was filed after the decree for specific performance had been confirmed

in first appeal.

The petitioner had filed objection petition on the ground that he is also an agreement holder from Judgment Debtor and he had been put in possession in the year 2005. He had further pleaded that he had already filed a suit for specific performance of the agreement to sell dated 04.04.2005. The objections have been dismissed by the learned Executing Court after recording the detailed reasons.

I have heard learned counsel for the petitioner at length and with her able assistance gone through the documents available in the paper book.

Learned counsel for the petitioner has submitted as under:-

- i) The objection petition filed by a third party objector could not be dismissed summarily and the Court was duty bound to frame the issues and allow the parties to lead the evidence.
- ii) In the present case, the Rule of lis pendens would not apply because there is no sale deed in favour of the petitioner.

I have considered the submissions. However, I do not find any force in the same. In the present case, the Decree Holder entered into an agreement to sell on 02.08.2004. After prolonged trial, the suit was decreed on 23.04.2011. First Appeal, Regular Second Appeal and Special Leave Petition were dismissed. Now the Decree Holder is wanting to execute the decree. The petitioner-third party objector is claiming right through the Judgment Debtor only. Once the petitioner is not claiming any independent right, then in my considered opinion, even third party objections were not maintainable. The petitioner is to sink and swim with the Judgment Debtor

because the petitioner is only claiming the right, whatever he has, only through the Judgment Debtor.

The objections filed by the petitioner are just to delay the execution of the decree which was passed in the year 2011. Six years have been passed. However, the Decree Holder has not been delivered the possession.

In view thereof, I do not find any good ground to interfere with the order passed by the Executing Court.

Revision petition is dismissed.

03.10.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No