

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8560 of 2016

Date of decision: 03.02.2017

Nitya Nand (deceased) through LRs and another

... Petitioners

Vs.

Madan Lal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Kaushik, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition is directed against the order dated 17.08.2016 passed by learned executing Court, dismissing the objections raised by judgment-debtors/petitioners.

Heard learned counsel for the petitioners.

It is a matter of record and not in dispute that decree for specific performance of agreement to sell has attained finality against the petitioners, after dismissal of their regular second appeal by this Court, vide order dated 18.05.2012. Thereafter, petitioners filed objections before the learned executing Court, alleging that they are bonafide purchasers from one Tara Bai and the plaintiffs-respondents No.1 and 2 Madan Pal and Murari Lal sons of Har Lal obtained the decree by playing fraud on Smt. Tara Bai. However, this totally baseless and concocted story put-forth by the petitioners has been rightly rejected by the learned executing Court, because the decree had already attained

finality against them. If at all, plea of fraud was to be alleged against the plaintiffs-respondents No.1 and 2, that could have been raised only by Smt. Tara Bai. In fact, neither the petitioners were bonafide purchasers nor they were party to the agreement to sell executed between plaintiffs and their vendors. 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 petitioners could not point out any patent illegality and perversity in the impugned order passed by learned executing Court. In fact, in the peculiar facts and circumstances of the case noticed hereinabove, the plea of fraud raised by the petitioners is wholly misplaced. They wanted to defeat the genuine claim of the plaintiffs-decree holders without there being any justified reasons. Their whole case is based on technicalities, that too without any basis. A bare reading of the impugned order would show that no error of law has been committed by the learned executing Court, while passing the impugned order and the same deserves to be upheld, for this reason also.

It is the settled proposition of law that learned executing Court shall not go behind the decree. That is what the learned executing Court has done, while passing the impugned order, which has been found based on sound reasons. Petitioners have already lost upto this Court and thereafter, once the decree against them had attained finality, they were trying to defeat the genuine claim of the decree-holders, which cannot be permitted in law. Having said that, this Court feels no hesitation to conclude that learned executing Court has rightly passed the impugned order 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 present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

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

[RAMESHWAR SINGH MALIK]
JUDGE

03.02.2017
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No