

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16573-2017

Date of Decision: July 28, 2017

Nirmal Singh and another

.....Petitioners

Versus

Debt Recovery Tribunal-III and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.R.S.Randhawa, Advocate
for the petitioners.

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SURYA KANT, J.

The petitioners claim themselves to be the bona fide purchasers of the land, fully described in the head-note of the writ petition, situated in the revenue estate of village Hasampur, Tehsil and District Patiala. The claim of the petitioners is based upon the Civil Court decree dated 05.08.2006 which was initially ex parte but thereafter again passed on 16.12.2014. A sale-deed was also executed in favour of the petitioners by the Executing Court on 28.03.2008. The above-stated decree was passed by the Civil Court in a suit for specific performance filed by the petitioners on the basis of Agreement to Sell, dated 07.06.2004.

[2] It appears that the vendor had taken loan in which a part of the land in dispute was mortgaged as a secured asset. He failed to repay the

loan and pursuant to the recovery proceedings initiated by the Bank, the land in dispute was sold in part by way of auction by the Debt Recovery Tribunal-II, Chandigarh (for brevity, 'the Tribunal') in favour of respondent No.6. The Office of Sub Registrar, Patiala, has issued a Sale Certificate in favour of respondent No.6 under the orders of the Tribunal (Annexure P-11). There is, thus, rival claims between the petitioners and respondent No.6 as both are claiming themselves owners of the disputed part of land.

[3] While the petitioners claim themselves to be bona fide purchasers of suit land through the process of Civil Court, the claim of respondent No.6 qua a part of the land is based upon the order passed by the Tribunal. The question of sustainability of the sale of the land in dispute in favour of the petitioners or respondent No.6 thus cannot be effectively gone into in the writ proceedings. Appropriate recourse for the petitioners is to approach the Tribunal and seek recall of its order as also cancellation of the Sale Certificate issued in favour of respondent No.6, if so permissible in law. Let the petitioners file an appropriate petition before the Tribunal within a period of two weeks from the date of receipt of a certified copy of this order and till such time, the parties are directed to maintain status quo re: possession.

(SURYA KANT)
JUDGE

July 28, 2017
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(SUDHIR MITTAL)
JUDGE

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

Yes/No
Yes/No