

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CR No.1566 of 2016 (O&M)

Date of decision: 14.05.2018

Sohan Pal

..... Petitioner

Versus

Dungar Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashok Aggarwal, Advocate
for the petitioner.

Mr. Rajesh Lamba, Advocate
for respondents No.2 and 3.

Mr. Pavan Malik, Advocate
for respondent No.4.

ANIL KSHETARPAL, J. (ORAL)

Decree-holder is in the revision petition against the order passed by the learned Executing Court dated 13.01.2016 directing the decree-holder to get the correct sale deed executed in accordance with judgment and decree.

Some facts would be required to be noticed. Dungar Singh was owner to the extent of 1/6th share in the joint land measuring 215 kanals and 10 marlas which would works out to approximately 35 kanals and 18 marlas. He has stated to have sold the land measuring 10 kanals and 10 marlas in favour of defendants No.2 and 3 vide sale deed dated 28.04.2003. Thereafter, he entered into an agreement to sell with the decree-holder with respect to 1/6th share in the land measuring 96 kanal and 10 marlas i.e. 16

kanal 01 marla on 16.05.2003. Thereafter, he further sold 18 kanals of land to one Satbir on 24.10.2003 and 17 kanals and 03 marlas in favour of defendant No.5 i.e. Faiman. The suit filed by the plaintiff was decreed and the plaintiff was only granted decree for specific performance of share of the property as mentioned in para 1 of the plaint. Operative part of the judgment passed by the Court reads as under:-

“As a sequel to my above findings, the suit is decreed with costs. A decree for specific performance of agreement Ex-P1 is granted in favour of the plaintiff, directing defendants No.1, 4 & 5 jointly to execute sale deed in favour of the plaintiff qua the suit land mentioned in para No.1 of the plaint and put the plaintiff in joint possession thereof, after receiving balance sale consideration from the plaintiff, who is directed to deposit the same in the Court within 3 months from the date of judgment. Decree-sheet be drawn up accordingly and file be consigned to record room after due compliance.”

At this stage, it would be useful to refer to para 1 of the plaint which reads as under:-

“That the defendant No.1 is co-owner in possession to the extent of 1/6th share out of the total agricultural land measuring 215 kanals 10 marlas comprising of Khewat No.37/37 Khata No.40 Rect. No.12 Killa No.24 (8-0), 25(7-10) Rect. No.15 Killa No.4 (8-0), 5(8-0) 6(8-0), 7(8-0), 15(8-0), 16(8-0) Rect. No.34 Killa No.22(8-0) Rect. No.37 Killa No.1(7-4), 2 (7-4), 8/2(7-9), 9(8-0), 10(8-0), 11(8-0), 12(8-0), 19(8-0), 20(8-0). Rect.No.37 Killa No.21/1(1-13), 22(8-0) Rect. No.39 Killa No.6/2(1-14), 13(8-0) 14(5-10), 15(8-1), 16(5-0), 17(4-7), 18(9-10) 24(8-7), 25(2-2) Rect. No.41 Killa No.3 (4-7), 4(7-10) Khasra No.105 (0-2) situated in the revenue estate of village Hilapur Tehsil Nuh Distt. Gurgaon. A copy of jamabandi for the year 1997-98 is attached herewith for reference.”

After the decree was passed, the decree-holder/petitioner filed

execution petition wherein in the initial part, the khasra numbers of land measuring 215 kanal and 10 marlas was mentioned and it was recorded that Dungar was owner of 1/6th share. However, subsequently in the sale deed, there was reference to some specified khasra number being sold to the petitioner. Learned Executing Court after noticing that the sale deed got executed through the official of the Court, is not in consonance with the decree passed, imposed a fine of Rs.10,000/- on the decree-holder and directed him to get the sale deed modified. This order is under challenge before this Court.

It is well settled that a purchaser of the property in a joint khata would only become a co-sharer and cannot claim that he is exclusive owner of a land comprised in specified khasra number. This is what was ordered by the learned trial Court while decreeing the suit. The plaintiff on purchase of the property would become a co-sharer and would be entitled to possession of the property after partition of the land. Learned Executing Court has ordered directing the decree-holder/petitioner to get the sale deed modified.

In view thereof, this Court does not find any error in the order passed by the Court.

Revision petition is dismissed.

14.05.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No