

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

CR No.1684 of 2018

Date of Decision:14.03.2018

Harbans Singh and another Petitioners

Vs.

Tirath Singh and others Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Arihant Jain, Advocate and
 Mr. Arun Jindal, Advocate for
 the petitioners.

RAMENDRA JAIN, J. (Oral)

Through this revision petition filed under Article 227 of the Constitution of India, the petitioners have assailed the order dated 06.01.2018, dismissing their objections.

In nutshell, respondent No.1, namely, Tirath Singh filed a suit for specific performance on the basis of agreement to sell dated 13.04.2010 executed by one Harwinder Singh, (now deceased) which after holding trial was decreed by the trial Court vide judgment and decree dated 27.02.2012. To materialise the decree aforesaid, respondent No.1 filed an execution in which the petitioners filed objections claiming their right over the suit property on the basis of some agreement to sell dated 20.03.2017, already executed by one Amar Kaur, mother of deceased Harwinder Singh through her General Attorney and that since the decree holder had not deposited any sale consideration within one month as directed in the judgment and decree aforesaid, therefore, execution petition was liable to be dismissed.

After hearing both the sides, the executing Court dismissed the objections of the petitioners vide impugned order dated 06.01.2018.

Learned counsel for the petitioners inter-alia contends that the decree holder despite specific directions in the judgment and decree in favour of respondent No.1, has not deposited the balance sale consideration within one month, therefore, the execution of respondent No.1 was liable to be dismissed. The Civil Court has already granted stay in a separate suit filed by the objectors against their vendor Amar Kaur mother of deceased Harwinder Singh. Moreso, application of Amar Kaur, mother of Harwinder Singh, vendee of decree holder under Order 9 Rule 13 CPC for setting aside ex parte judgment and decree aforesaid dated 27.02.2012 in favour of respondent- decree holder is still pending adjudication, therefore, the trial Court ought to have waited till decision in the said applications. Any amount paid by decree holder to Mohinder Singh, another alleged vendee is meaningless.

Having given considerable thoughts to the submissions made by learned counsel for the petitioners, I find the instant appeal completely devoid of any merit, rather is a gross abuse of the process of Court for the reasons to follow:-

(1) The petitioners are strangers to the transaction in between the deceased Harwinder Singh and Tirath Singh. Therefore, they have no legal right to file any objection.

(2) The executing Court is committing no wrong in executing the decree which was passed wayback on 27.02.2012 and has attained finality.

(3) The petitioners are trying to stake their claim on the basis of some agreement dated 20.03.2017 allegedly executed by alleged general attorney of Amar Kaur, mother of deceased Harwinder Singh in their favour, which seems to be a clever and malafide device adopted by the petitioners in connivance with Amar Kaur to restrain the decree holder in reaping the fruits of the decree aforesaid in their favour.

I have gone through the impugned order and find no illegality or perversity in the same. Accordingly, the revision is dismissed.

March 14, 2018
renu

(RAMENDRA JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No