

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

CR No.3022 of 2015 (O&M)

Date of decision : 15.05.2018

Sushma Kumari and another

...Petitioners

Versus

Oriental Bank of Commerce and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S. Bhandal, Advocate for the petitioners.

Mr. Anil K. Ahuja, Advocate for respondent No.1.

Mr. Arshdeep Singh Arora, Advocate for respondent No.6.

ANIL KSHETARPAL, J. (ORAL)

The respondent-bank had filed a suit for recovery of the amount by sale of the mortgaged property under Order 34 of the Code of Civil Procedure against the mortgagors. In the aforesaid suit, the preliminary decree was passed which was modified by the First Appellate Court. Bank filed an application for passing a final decree. During those proceedings, the objections under Section 47 of the Code of Civil Procedure were filed by the petitioners claiming that they are living in the house in question from a long time. They also claimed that the sale deed executed by Surjit Singh in favour of Falinder Singh-defendant No.2 on 06.01.1995 was illegal, null and void. It may be noted that Falinder Singh had mortgaged the property in favour of the bank on the basis of his title under the sale deed dated 06.01.1995.

Learned trial Court dismissed the objections filed by the petitioners. Against the aforesaid order passed by the trial Court, this revision petition has been filed.

Learned counsel for the petitioners has admitted that till date no

final decree has been passed, although, he submits that objections under Section 47 of the Code of Civil Procedure are even maintainable when proceedings for the final decree are pending.

This Court has considered the submissions of the learned counsel for the petitioners, however, do not find any substance therein.

In the considered opinion of this Court, only when a final decree is passed, the same is executable. Still no final decree has been passed. Hence, the petitioners had no occasion to file the objections in the proceedings for passing the final decree. Still further, Falinder Singh-defendant No.2 had mortgaged the property in question claiming himself to be the owner of the property on the strength of the sale deed dated 06.01.1995 which was executed by his brother-in-law Surjit Singh. The aforesaid registered sale deed declares Falinder Singh to be the owner of the property. Falinder Singh is mortgagor of the property alongwith others. The aforesaid sale deed has not been set aside by the Court of law. The persons who are in possession without any right, title or interest in the property have no right to object to the execution of the decree. Still further, the objections filed under Section 47 of the Code of Civil Procedure were not wholly maintainable as the objections under Section 47 of the Code of Civil Procedure can only be filed by the parties to the suit. The petitioners are not the party to the suit.

In view thereof, there is no scope for interference.

Revision petition is dismissed with costs of ₹25,000/-.

15.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No