

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

119

CR No.4163 of 2015 (O & M)
Date of Decision:10.05.2018

Rajinder Singh Rajput

...Petitioner

Versus

Gurmeet Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioner.

Mr. S.S. Khaira, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Objector-petitioner, who had filed third party objections is in the revision petition against the order passed by the learned Executing Court dismissing the objections. Originally the property was owned by late Sh. Mahender Singh, who stated to have died in the year 2002. He had left behind five Class I heirs. One of the Class I heir i.e. Gurpreet Singh, the son entered into an agreement to sell with the respondent/decree-holder. A decree for specific performance of the agreement to sell has been passed in favour of the decree-holder/respondent on 24.05.2011 by ex parte judgment.

On the other hand, objector before this Court is claiming to be a bona fide purchaser of the property with the plea that by way of a declarative decree, Manjeet Kaur widow was declared owner. She sold the property to one Smt. Meena, who further sold the property to Sh. Shailender

Chawla and Parveen Kumar and thereafter, they further executed a sale deed

in favour of the petitioner-Rajinder Singh Rajput.

Learned Court has dismissed the objection on the ground that the sale deed executed by Shailender Chawla and Parveen Kumar in favour of the petitioner is after the date of execution of the decree. The Court has also held that the decree for specific performance of the agreement to sell dated 25.05.2011 has not been challenged.

However, learned Executing Court has not considered and returned the finding as to how Gurpreet Singh could enter into an agreement to sell with respect to the entire house particularly when as per Hindu Succession Act, he was only entitled to 1/5th share in the property. Third party objections have to be decided like a suit. Court may not permit parties to lead oral evidence, however, must allow the parties to produce documents and examine the objections objectively. Decree for specific performance of the agreement to sell does not result in declaration of title in favour of the parties to the suit. Decree for specific performance of agreement to sell is only enforcement of a contract between the parties under the provisions of Specific Relief Act, 1963.

In the considered opinion of this Court before deciding the objections filed by the petitioner, the learned Executing Court should have adverted to the fact that whether Gurpreet Singh, judgment-debtor was either authorized by the remaining legal heirs or he became owner of the entire house by any gift, transfer, testamentary document or otherwise. From the reading of the order, it is apparent that this aspect to the matter has not been adverted by the learned Executing Court.

In view of the aforesaid, the revision petition is allowed.

Learned Executing Court is directed to re-decide the objections

after giving opportunity to the parties to produce documents in support of their case within a period of 4 months from the date of receipt of certified copy of the order.

Parties through their counsel are requested to appear before the Court on 31.05.2018.

10.05.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No