

CR-3971-2018 (O&M)

Date of Decision: 13.08.2018

Sukhmander Singh

.....Petitioner

versus

Rajinder Singh @ Kartar Singh through LR and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**Present:** Mr. Abhinav Jain, Advocate
for the petitioner.**DEEPAK SIBAL, J. (ORAL)**

Through the present petition, challenge is made to the order dated 27.07.2017 passed by the Additional Civil Judge (Senior Division), Baghapurana (for short 'the Executing Court') through which the objections filed by the petitioner have been dismissed.

After hearing learned counsel for the petitioner as also perusing the record with his able assistance, the relevant facts which have been culled out are that respondent No.1 filed a suit seeking therein specific performance of agreement to sell dated 10.06.1977 which was partly decreed by the Trial Court on 19.09.1986. After holding the aforesaid agreement to be valid the Trial Court held respondent No.1 entitled to recover from the defendants an amount of Rs.22,500/- along with interest and proportionate costs. Since the Trial Court did not grant possession of the suit property, respondent No.1 filed an appeal against the afore-referred judgment and decree dated 19.09.1986 which was allowed on 07.05.1990. The defendants to the suit challenged the judgment and decree of the Appellate Court through an appeal filed before this Court which was dismissed on 23.03.2010.

In the execution proceedings, initiated by respondent No.1, the petitioner filed third party objections. The case set up by the petitioner was that

on 03.09.2010, legal heirs of defendant No.2 to the suit i.e. respondent No.3- Gurdev Kaur had sold about 15 kanals out of the suit property to one Kulwant Singh, who on 18.05.2015 in turn had sold 13 kanals 8 marlas out of that to the petitioner and since the petitioner was a *bonafide* purchaser, the decree holder was not entitled to seek possession of such land.

The record reveals that through the instant execution proceedings, respondent No.1-Rajinder Singh @ Kartar Singh, seeks specific performance of an agreement between himself and the defendants in his suit which was entered into between them over 40 years ago. In spite of the Trial Court partly decreeing his suit, the Appellate Court fully decreeing his suit and this Court dismissing the defendants' appeal and the matter having attained finality over 08 years ago, till date respondent No.1 is not in possession of the suit property, primarily for the reason that first, the judgment debtor/defendants and then objectors like the petitioner have been constantly creating hurdles in his way.

Admittedly, the sale deed of about 15 kanals of land allegedly executed by the LRs of Gurdev Kaur, who was one of the defendants in respondent No.1's suit, in favour of Kulwant Singh is dated 03.09.2010 and the sale deed by the said Kulwant Singh in favour of the petitioner is dated 18.05.2015. It is this sale deed which is the sole basis of the petitioner's objections. The afore-referred sale deeds having been executed after the decree in favour of respondent No.1 had attained finality on 23.03.2010. Thus, these sale deeds are hit by the doctrine of *lis pendens* and therefore, the Executing Court has rightly rejected the objections filed by the petitioner.

Dismissed.

(DEEPAK SIBAL)
JUDGE

13.08.2018

Neha

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