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

**Civil Revision No.4524 of 2018
Date of Decision:14.08.2018**

Hari Ram**Petitioner**
Vs
Sodhi Haravtar Singh**Respondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ranjit Singh Ghuman, Advocate
for the petitioner.

Mr. Naveen Batra, Advocate
for the respondent-LR No.(ii).

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred against the order dated 27.03.2018 passed by the Addl. Civil Judge (Sr. Divn.) Sri Anandpur Sahib whereby objections filed by the petitioners/legal representatives of Smt. Satya Devi @ Satwant Kaur widow of Hari Ram were dismissed.

[2]. Salient features of the case are that a Civil Suit No.97 of 26.02.1991 for possession and permanent injunction was filed by Sodhi Haravtar Singh against Hari Ram in respect of 2 *Kanals 0 Marla* of land described in the said suit with letters 'ABCDEFGH' in red colour in the site plan. The said suit was decreed vide judgment and decree dated 03.04.1996 passed by the Addl. Civil Judge (Sr. Divn.) Sri Anandpur Sahib. The

aforesaid judgment and decree dated 03.04.1996 was affirmed in appeal by the lower Appellate Court vide judgment and decree dated 22.04.2002.

[3]. On 27.02.2006, a Civil Suit No.54 of 2006 was filed by Satya Devi @ Satwant Kaur wife of Hari Ram for declaration to the the effect that she was the joint owner in respect of land measuring 1 *kanal* 3 *Marlas* out of land forming part of Khasra No.443 (37-18) as per *jamabandi* for the year 2003-04. The said suit was filed against Sodhi Haravtar Singh through his legal representatives and the same was decreed vide judgment and decree dated 18.12.2012 by Addl. Civil Judge (Sr. Divn.) Sri Anandpur Sahib.

[4]. Against the judgment and decree dated 18.12.2012, an appeal was preferred before the lower Appellate Court by Sodhi Har Avtar Singh through his legal representatives. The said appeal was remanded by the lower Appellate Court vide judgment and decree dated 31.03.2015 passed by the Addl. District Judge, Fast Track Court, Ropar. Thereafter the trial Court decided the suit on remand, thereby decreeing the same vide judgment and decree dated 13.11.2015. The said judgment and decree has attained finality.

[5]. In execution of decree dated 03.04.1996 passed in the

suit filed by Sodhi Haravtar Singh through his legal representatives, the objections were filed by the petitioners namely Mohan Singh and Narain Singh being legal representatives of Hari Ram on the ground of fraud. Factum of judgment and decree dated 18.12.2012 passed by the trial Court in favour of Satya Devi @ Satwant Kaur was pleaded in para no.5 of the preliminary objection and para no.9 on merits of the objections.

[6]. Perusal of impugned order dated 27.03.2018 would show that the objections have been dismissed primarily on the ground that the objections filed by the legal representatives of judgment debtor Hari Ram are silent with regard to the alleged fraud in obtaining the judgment and decree dated 03.04.1996.

[7]. At the time of issuance of notice of motion on 19.07.2018, following order was passed by this Court:-

“Learned counsel for the petitioner contends that the objections filed by the petitioner in execution of civil court decree dated 3.4.1996 have been dismissed primarily on the ground that the objections filed by the petitioner are silent with regard to fraud in obtaining the judgment and decree under execution. Learned counsel refers to the objections wherein para No.2 is specific to the effect that judgment and decree dated 3.4.1996 passed by the trial Court and judgment and decree dated 22.4.2002 passed by the lower Appellate Court are the result of fraud.

*Notice of motion for 31.7.2018 for final disposal.
Dasti only."*

[8]. Legal representatives of Sodhi Haravtar Singh have been served though the learned counsel appearing on their behalf before the trial Court. Mr. Naveen Batra, Advocate has appeared on behalf of respondent/legal representative No.2. Service of LR No.1 though Mr. B.S. Bhathal, Advocate, Civil Court at Sri Anandpur Sahib is complete as per office report dated 14.08.2018.

[9]. In view of nature of controversy viz-a-viz. two suits, the objections filed by the petitioners ought to have been decided by way of following proper procedure. The dismissal of the objections summarily on the ground that plea of fraud has not been taken in the objections is *prima facie* not correct in view of paras no.2 & 5 of the preliminary objections and para No.9 on merits of the objections filed by the legal representatives of Hari Ram.

[10]. Satya Devi @ Satwant Kaur was wife of Hari Ram, therefore, legal representatives of Hari Ram would suffice to serve the purpose of legal representatives of Satya Devi @ Satwant Kaur as well. The judgment and decree dated 18.12.2012 passed by the civil Court was affirmed by the lower Appellate Court after remand vide judgment and decree dated

13.11.2015. Satya Devi @ Satwant Kaur was held to be joint owner of 1 *Kanal* 3 *Marlas* of land forming part of *Khasra* No.443 (37-18). In the aforesaid suit, defendants contested the claim of the plaintiff by asserting that execution of judgment and decree dated 03.04.1996 in suit titled '*Sodhi Haravtar Singh vs. Hari Ram*' was pending. In a way, the suit property was claimed to be the same.

[11]. At this stage, no final opinion can be made in respect of nature of properties involved in both the suits. The dismissal of the objections primarily on the ground that ingredients of fraud have not been pleaded in the objections is found to be incorrect. The executing Court ought to have decided the objections in view of controversy arising out of the two suits in respect of the suit land.

[12]. In view of above, at this stage it would be just and appropriate to set aside the impugned order dated 27.03.2018 passed by the Addl. Civil Judge (Sr. Divn.) Sri Anandpur Sahib. Ordered accordingly. This revision petition is disposed of. The case is remanded to the trial Court for fresh decision in accordance with law. The trial Court would proceed with the objections and shall decide the same expeditiously in accordance with law.

August 14, 2018

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No