

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

CR No.4939 of 2016 (O&M)
Date of decision : 09.05.2018

Sardari Lal Khanna (through LRs) Rajesh Khanna

...Petitioner

Versus

Anmol Walia and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anup Gautam, Advocate for
Mr. Nimanyu Gautam, Advocate for the petitioners.

Mr. Jasmeet Singh Ghumman, Advocate for respondent No.1.

Mr. Abhinav Gupta, Advocate for respondent No.2.

ANIL KSHETARPAL, J.

The arguments of learned counsel for the parties were heard at length and the order was pronounced. The Court now proceed to record the detailed reasons.

CM No.15150-CII of 2016

This is an application for bringing on record the legal representatives of Sh. Sardari Lal Khanna.

For the reasons stated in the application, which is duly supported by an affidavit, legal representatives of Sh. Sardari Lal Khanna

as mentioned in para 2 of the application are ordered to be brought on record, for the purpose of prosecuting the present petition.

Application is disposed of.

Main Case

The petitioner-Decree Holder is in the revision petition against the order passed by the learned Executing Court framing the issues and permitting the parties to lead oral evidence.

It has been correctly said that the problems of a Decree Holder, in fact start after the decree is passed in his favour.

Some facts are required to be noticed. Smt. Surinder Kaur Dhiman, original owner of the property appointed Smt. Surinder Kaur (although the name is same but other lady) as a General Power of Attorney vide deed dated 08.09.2003. Smt. Surinder Kaur (2nd lady), while acting as an Attorney Holder, is said to have further given a Special Power of Attorney to Hardeep Singh, her son. Hardeep Singh on the strength of the Special Power of Attorney given by his mother had executed sale deed in favour of his wife i.e. Smt. Anmol Walia on 01.04.2009. Smt. Anmol Walia entered into an agreement to sell of the property in dispute. She did not honour the agreement forcing the petitioner to file a suit for possession by way of specific performance of the agreement to sell. The suit was decreed on 09.07.2015. Appeal against the same was also dismissed on 02.11.2015.

The petitioner-Decree Holder, who is no more in the world, filed an execution petition. In the execution petition, Smt. Bindu Bedi filed

objections. Smt. Bindu Bedi is the daughter of Surinder Kaur, GPA Holder and sister of Hardeep Singh and sister-in-law of Anmol Walia. The precise objection is that Smt. Surinder Kaur (2nd lady) died on 18.03.2009 and, therefore, Special Power of Attorney given to Hardeep Singh had come to end and hence, sale deed executed by Hardeep Singh in favour of Anmol Walia does not confer any title on Anmol Walia.

As noticed, original owner was Smt. Surinder Kaur Dhimani. She is not objecting to the execution of the decree. Smt. Bindu Bedi is daughter of Surinder Kaur (2nd lady), GPA Holder. Prima facie Bindu Bedi has no locus standi to object to the decree for possession by way of specific performance. However, this Court is not finally adjudicating upon the aforesaid locus standi.

Learned Executing Court has framed the issues in the objection petition and directed the parties to give oral evidence.

In the considered opinion of this Court, such like objections should be decided by the Court without allowing objectors to delay the execution of the decree for a long time. The permission to lead oral evidence would result in full-fledged trial in the execution petition. Most of the objections can be decided by allowing the parties to produce the documents in support of the objections filed and counter document if any submitted by the Decree Holder and then proceed to adjudicate upon the objections. It is only in rare case where the objections raised require oral evidence. Sincere efforts must be made to avoid the delay in execution of the decree.

In this case, this Court is of the opinion that in the facts and circumstances of the case, learned Executing Court committed an error in framing the issues and thereafter permitting the parties to lead oral evidence.

In view of the discussions made above, the revision petition is allowed. The order under challenge is set aside. The Executing Court would permit the Objector and the Decree Holder to file the documents in support of the objections and the reply filed by the respective parties and thereafter decide the objections in accordance with law, within a period of two months from the date of receipt of certified copy of this order.

09.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No