

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

**CR-4955-2016 (O&M)
Date of decision : 19.2.2018**

Harpinder Singh

..... Petitioner

Versus

Ajaib Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. Dheeraj Mahajan, Advocate for the respondent.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 19.7.2016 (Annexure P-9), passed by learned Civil Judge, (Senior Division), Gurdaspur vide which objections filed by the petitioner-judgment debtor that decree has been compromised was summarily dismissed.

Heard.

It comes out that a decree for specific performance of the agreement was passed by learned trial Court on 22.2.2008 (Annexure P-2). The appeal was dismissed on 21.4.2009 by lower Appellate Court. According to the judgment debtor, a compromise was effected on 17.5.2009 (Annexure P-3), whereby judgment-debtor agreed to pay Rs. 1,21,000/- to the decree holder. Further, as he could not arrange the said amount, therefore, the mortgage deed of some other property belonging to

Sukhwinder Singh, brother of Judgment debtor, in favour of Jasbir Kaur-

wife of the decree holder was executed vide mortgage deed dated 7.8.2009.

I have examined the agreement between Sukhwinder Singh-brother of the judgment debtor and decree holder-Ajaib Singh. The agreement also bears the signature of judgment debtor. Thereafter, there is a mortgage of land belonging to Sukhwinder Singh, brother of judgment debtor in favour of the wife of the decree holder. It bears the signatures of the decree holder who signed on behalf of his wife.

In any case, if a compromise after passing of the decree is alleged and the same is denied by other party it is to be decided after recording the evidence and could not be decided summarily.

In view of the above, impugned order dated 19.7.2016 (Annexure P-9), passed by learned Civil Judge, (Senior Division), Gurdaspur is set aside and from the objections following issues are framed:

1. Whether decree stands satisfied in view of compromise dated 17.5.2009 and mortgage deed dated 7.8.2009? OPO.
2. Whether said compromise and mortgage deed is result of fraud? OPDH.
3. Relief.

In view of above, present revision petition is allowed. Executing Court is directed to allow the judgment debtor-objector as well as decree holder to lead evidence on the same and decide the same after recording the findings.

Both the parties are directed to appear before the Executing Court on 20.3.2018 at 10.00 A.M.

(KULDIP SINGH)
JUDGE

19.2.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No