

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 228

CR-7124-2016 (O&M)

Date of decision :13.11.2018

Surinder Singh

..... Petitioner

VERSUS

Jasbir Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Narender Kaajla, Advocate, for the petitioner.

Mr. S. K. Biriwal, Advocate, for the respondents.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 11.07.2016, passed by the Additional Civil Judge (Senior Division), Guhla (for short, the Executing Court), through which warrants of attachment of the petitioner's 19 acres of land have been issued. Challenge is also made to the order dated 02.09.2016 through which an application filed by the petitioner for recalling the above referred order has been dismissed.

The fact, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondents filed a suit seeking therein a decree of possession by way of specific performance of agreement to sell dated 19.10.2005 as also of subsequent agreements and unregistered sale deed dated 09.08.2006 with regard to the land detailed and described in the plaint (for short, the suit property). Such suit was decreed by the Trial Court which decree was challenged by the petitioner by way of an appeal. The appeal was partly allowed holding the respondents entitled to recover from the petitioner an amount of ₹45 lakhs alongwith interest @ 8% per annum from the date of execution of agreement to sell till its realization. The aforesaid judgment of the Appellate Court was

challenged by the respondents before this Court through a regular second appeal which was dismissed on 29.05.2014 against which the respondents preferred a Special Leave Petition before the Hon'ble Supreme Court which was also dismissed on 27.01.2015. Thereafter, the respondents filed an application before the Executing Court seeking to recover from the petitioner the decretal amount. After notice to the petitioner, when he failed to pay the decretal amount, nineteen acres of agricultural land owned by him was ordered to be attached to be sold so that out of the sale proceeds the decretal amount could be paid to the respondents. After the order for attachment of the petitioner's aforesaid property has been passed, the petitioner filed an application before the Executing Court seeking it to recall its order as according to the petitioner his property was valued at ₹6 crores whereas the decretal amount was only ₹45 lakhs alongwith interest. On the dismissal of the application filed by the petitioner, the present proceedings have been instituted before this Court.

Learned counsel for the parties have been heard.

As per the judgment and decree of which execution is sought by the respondents they were held entitled to recover from the petitioner an amount of ₹45 lakhs alongwith 8% interest from the date of agreement to sell dated 19.10.2005 till its realization. Such amount alongwith interest would have now swollen to about ₹ 1 crore. No evidence was placed by the petitioner before the Trial Court to substantiate his claim that the value of the petitioner's attached property was ₹6 crores. A document has been produced by the petitioner before this Court showing the Collector's

rate for '*Chahi*' land in village Chanchak, Tehsil Gulha, Kaithal @ ₹15 lakhs per acre. This document was not produced before the Executing Court and therefore, the same cannot be considered. Even otherwise, there is nothing on record to show that the land of the petitioner which has been attached is categorised as '*Chahi*'. Still further, nothing has been placed on record even before this Court to show the present market value of the petitioner's attached land is as per the claim made by him.

In view of the above, no merit is found in the present petition and resultantly, the same is ordered to be dismissed.

No costs.

13.11.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No