

CR No. 6749 of 2018
Date of Decision: 10.10.2018

Jagdish

.....Petitioner

Versus

Savitri (since deceased) through her LR's and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBALPresent: Mr. Aakash Singla, Advocate
for the petitioner.**DEEPAK SIBAL, J. (ORAL)**

The present petition is directed against the order dated 20.09.2018, passed by the Additional Civil Judge (Senior Division), Sonapat (for short, the Executing Court), through which the petitioner's third party objections have been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent Nos.1 to 6 filed a suit in which respondent Nos.7 to 14 were the defendants. Through such suit respondents No. 1 to 6 sought possession of the suit property after demolishing the construction made thereupon. The suit was decreed on 15.10.2011 by the Additional Civil Judge (Senior Division), Sonapat (for short, the Trial Court). When respondent Nos.1 to 6 sought execution of the aforesaid decree, the petitioner filed third party objections on the ground that out of the suit property vide sale deed dated 23.02.1998 he had purchased 36 Sq.yards of land and since then he was in possession thereof. The objections filed by the petitioner were rejected by the Executing Court occasioning the filing of the present petition.

Learned counsel for the petitioner submits that since the petitioner claims to be in possession of the suit property, the Executing Court could not have summarily rejected his objections and should have first framed issues and then permitted the parties to lead evidence. In support of his contentions reliance was placed on two judgments of this Court in **‘Pohlo Ram Sharma and others Vs. Narinder Singh Randhawa and others’, 2008 (1) R.C.R. (Civil) 442** and **‘Suresh Kumar Vs. Niranjan Singh’, 2000 (4) R.C.R. (Civil) 140**.

After considering the afore submissions made by learned counsel for the petitioner, no merit in the same is found.

A perusal of the objections filed by the petitioner before the Executing Court reveals that the petitioner had solely based his objections on a sale deed dated 23.02.1998 executed between him and one Inder Singh. Such sale deed, when perused, shows that the same pertains to the purchase by the petitioner of 36 Sq.yards of land situated in Khewat No.107, Khata No.122, Plot/Khasra No. 480 in village Khewra Alif, Tehsil and District Sonapat. When the details of the property of which the petitioner alleges himself to be the owner are compared with the suit property mentioned in the decree dated 15.10.2011, it is found that the decree pertains to property measuring 1 Kanal 6 Marlas situated in Khewat No.1359, Khatoni No.1497 min Khasra No.435 in village Khewra Alif, Tehsil and District Sonapat. Thus, the sale deed on which the petitioner has based his entire claim pertains to the property situated in Khewat No.107, Khata No.122, Plot-Khasra No.480 which is distinct from the property which is the subject matter of the decree. Therefore, as per the petitioner’s own showing, he has no concern with the property covered by the aforesaid decree.

Learned counsel for the petitioner was granted several opportunities to produce evidence showing himself to be in possession of the suit property. In response thereto two electricity bills and the petitioner's Voter Card issued by the Election Commission of India were produced. A perusal of these documents, which are taken on record as Mark B, C and D respectively, do not give any indication regarding the petitioner being in possession of the suit property.

In Pohlo Ram Sharma's case (supra) as also in Suresh Kumar's case (supra), the documents relied upon by the objectors therein, like in the present case, did not show that the objectors were basing their entire case on a property which was distinct from the property so mentioned in the decree the execution of which was being sought. Thus, the reliance on the aforesaid judgments is misplaced.

In view of the above, no merit is found in the present petition.

Dismissed.

(DEEPAK SIBAL)
JUDGE

10.10.2018
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No