

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 7768-2016 (O&M)

Date of decision: 06.02.2018

Kela Devi

.....Petitioner

versus

Kulbir Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sanjiv Gupta, Advocate for the petitioner

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is order dated 18.9.2015, passed by learned Civil Judge (Junior Division), Karnal (Annexure P3), vide which, in the execution of decree for specific performance, third party objections filed by Kela Devi petitioner were dismissed.

I have heard learned counsel for the petitioner and have also carefully gone through the file.

It comes out that the a decree for specific performance regarding land measuring 1 kanal 8 marla was passed in favour of Gian Singh and Tej Pal on 19.12.2009. The appeal against the said judgment was dismissed on 16.9.2016 by learned Additional District Judge, Karnal. When the execution was filed, one Kela Devi filed third party objections, stating that out of the said suit land, she is in possession of land measuring 1 kanal 4 marlas for the last 20-25 years. It was claimed that Kulbir Singh had sold the land to her and that she had paid Rs.25,000/- through a receipt on

11.9.1991. Photocopy of the receipt was produced. Kulbir Singh has executed sale deed in favour of said Kela Devi on 4.3.2011 for Rs.7,26,000/-. Therefore, she is owner of the land measuring 1 kanal 4 marla out of the suit land.

I am of the view that Kela Devi claimed that she had paid Rs.25,000/- to Kulbir Singh on 11.9.1991. Only photocopy of the receipt was produced. No written agreement was reduced into writing. Therefore, terms and conditions of any agreement were not on file and it is not known for which purpose the money was paid. After the passing of the present decree, Kulbir Singh executed the sale deed in favour of Kela Devi on 4.3.2011 for Rs.7,26,000/-. Though in the receipt, it was claimed that the entire payment of Rs.25,000/- has been made. Original receipt was kept away from the Court. Therefore, it appears that the original receipt was created after the passing of the decree to frustrate the present decree, which, in any case, after passing of the decree, will not get any precedent over the decree passed in favour of the plaintiff.

Learned counsel for the petitioner has contended that in this case, objections should have been tried as a suit and issues should have been framed.

I am of the view that the sole purpose of filing the objections is to delay and frustrate the decree. Purpose of the petitioner will be served if issues are framed and parties are allowed to lead evidence. In fact, the original receipt has not been produced and the sale deed from its face is executed after the passing of the decree. Therefore, no issues are required to be framed. The trial Court was justified in dismissing the said objections summarily. No case is made out to interfere in the impugned order.

The revision petition is dismissed accordingly.

06.02.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No