

(119) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7501 of 2018

Date of decision: 01.11.2018

Karam Singh

.... Petitioner

Versus

Angrej Singh and another

..... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Mrigank Sharma, Advocate for the petitioner.

B.S. Walia, J. (Oral)

[1] Learned counsel contends that the petitioner/defendant No.1 had mortgaged 6 bighas 10 biswas of land with respondent No.2/defendant No.2-Bank for loan in the year 2002. Subsequently, in the year 2011, he entered into an agreement to sell with respondent No.1/plaintiff. Eventually suit for specific performance was filed by respondent No.1/plaintiff and the same was decreed with sale deed to be executed in favour of respondent No.1/plaintiff for 6 bighas 10 biswas of land subject to the condition that the mortgage would be the first charge over the suit property and suit property would get transferred in favour of respondent No.1/plaintiff with all encumbrances and that respondent No.2/defendant No.2-Bank would be at liberty to recover the mortgaged amount from the suit property.

[2] Learned counsel states that in the aforementioned background, respondent No.1/plaintiff filed execution application for specific performance of judgment and decree dated 08.06.2012 and later on moved

an application for amendment of the execution application to contend that only 1 bigha 10 biswas of land was mortgaged by the petitioner/defendant No.1 with respondent No.2/defendant No.2-Bank and that the remaining 5 bighas was free from encumbrances and sale deed be executed for the same. Learned counsel contends that this plea of respondent No.1/plaintiff is factually incorrect and is contrary to the record as the petitioner/defendant No.1 had specifically mortgaged 6 bighas 10 biswas of land to the Bank in the year 2002 and in respect of which judgment and decree had been passed in the suit for specific performance filed by respondent No.1/plaintiff and it had been ordered that sale deed be executed qua 6 bighas 10 biswas of land in favour of respondent No.1/plaintiff and that the mortgage would be the first charge over the suit property and suit property would get transferred with all encumbrances to plaintiff/respondent No.1 and that respondent No.2/defendant No.2-Bank would be at liberty to recover the mortgaged amount from the suit property.

[3] Learned counsel further contends that the petitioner as well as the respondent No.2-Bank filed objections by taking up the plea that the application for amendment moved by respondent No.1/plaintiff was mala fide and contrary to the record as the land mortgaged was 6 bighas and 10 biswas and not merely 01 bigha and 10 biswas of land. However, the objections filed by respondent No.2-Bank were dismissed while the objections filed by the petitioner have still to be decided. Learned counsel contends that having dismissed the objections filed by the Bank (respondent No.2), liberty granted to the Bank (respondent No.2) to proceed further with regard to the recovery of the loan amount by following the due process of law is contrary to the judgment and decree in favour of respondent No.1-plaintiff.

[4] Learned counsel contends that he limits his prayer to status quo be maintained till such time that objections filed by him are not decided by the Executing Court and for a period of one week thereafter in order to enable him to avail of his remedy in accordance with law, if the circumstance of the case so warrants.

[5] In view of the order proposed to be passed, I do not deem it necessary to issue notice to the respondents as the same would merely delay the conclusion of the case.

[6] Accordingly, the Revision Petition is disposed of by directing the learned Executing Court to decide the objections filed by the petitioner/defendant No.1 which are stated to be pending as early as possible preferably by the next date and till such time that the objections are not decided, status quo be maintained with regard to the suit property and for a period of one week after the decision of the objections filed by the petitioner.

[7] Revision petition is disposed of in the aforementioned terms.

(B.S. Walia)
Judge

01.11.2018
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No