

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

118

CR-8452-2017 (O & M)
Date of decision : 16.01.2018

Tara Singh

...Petitioner

Vs.

Sawinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. R.K.Arya, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (Oral)

Judgment-debtor/petitioner is in the revision petition against the order passed by the learned Executing Court dated 10.11.2017.

Petitioner had objected to the execution of the decree on two grounds (i) decree-holder has not disclosed that the learned First Appellate Court had modified the decree (ii) judgment-debtor is only owner of 2 kanals and 7 marlas of land and since the land is share in a joint khata, therefore, the actual possession cannot be delivered.

Learned Executing Court has held that the decree-holder has disclosed the modification of the decree of the learned First Appellate Court and, therefore, the objection taken on this account is factually incorrect.

Learned Executing Court has also held that the sale pursuant to the decree would be sale of share and decree-holder shall not be entitled to the possession of the specific khasra numbers. The relevant discussion of the Court is at page 50, which is extracted as under:-

*“No doubt, JD Tara Singh entered into agreement
dated 20.02.2002 with regard to land measuring 11 kanal*

15 marla by mentioning two specific khasra numbers i.e. 2//11 and 7//10 out of the total joint property, however it is settled law that sale of land out of joint property by mentioning specific khasra numbers will be deemed to be sale of share from the whole of the joint property and in the present case also, even if specific khasra numbers have been mentioned in agreement to sell dated 20.02.2002 which have been further reflected in the sale deed, executed in favour of decree holder through process of the Court, will be deemed to be sale of share by JD in favour of decree holder and decree holder will not be entitled to possession of specific khasra numbers mentioned in the sale deed executed in his favour through process of the Court.”

In view of the aforesaid, the Court has already taken care of the second objection of the petitioner. The Court has recorded a finding that there is no concealment of fact on the part of the decree-holder. The decree-holder has disclosed that the decree passed by the learned Trial Court was modified by the learned First Appellate Court.

In view thereof, there is no scope for interference .

Hence, revision petition is dismissed.

16.01.2018

Harish Kumar/sheetal

**(ANIL KSHETARPAL)
JUDGE**

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