

CM-145-C-2018 in/and
ESA No. 1 of 2018 (O/M)
Date of decision : 10.1.2018

Versus

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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For the reasons mentioned in the application, delay of 16 days in refiling the accompanying appeal is condoned.

Application is disposed of.

Impugned in present Execution Second Appeal is order dated 7.8.2015, passed by the learned Additional Civil Judge (Senior Division), Rajpura, dismissing the objections of present appellant. Appellant also assailed the order dated 31.8.2017, passed by the learned Additional District Judge, Patiala, vide which the appeal of appellant was dismissed.

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

It comes out that present appellant claims the judgment and

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decree dated 25.7.2013 (Annexure-P-4), passed by the learned Additional Civil Judge (Senior Division), Rajpura, in his favour regarding the same property based on the agreements of sales dated 4.7.2006, 24.7.2006, 3.8.2006 and 4.10.2006. He had filed a civil suit in the year 2008, which was decreed on 25.7.2013 (Annexure-P-4). However, it comes out that in the decree, which is subject matter of execution, one Joginder Singh (respondent No. 1 herein) had filed a civil suit against the same defendant Darshan Singh on the basis of agreement of sale dated 17.8.2005, which was decreed on 7.4.2012 (Annexure-P-3), passed by the learned Additional Civil Judge (Senior Division), Rajpura. Since Darshan Singh (defendant) did not file any appeal, the learned counsel for appellant contends that there was a connivance between Joginder Singh and Darshan Singh and that Joginder Singh knew about the agreements of sale in favour of present appellant.

I am of the view that both the Courts below have rightly held that the agreement of sale is prior in date. Even the decree is also prior in date. That means that decree in favour of Joginder Singh will prevail upon the judgment and decree passed in favour of present appellant. Therefore, the objections of present appellant were rightly dismissed by both the Courts below. There is no ground to interfere in the impugned orders. Therefore, present Execution Second Appeal is dismissed.

(KULDIP SINGH)
JUDGE

10.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No