

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

ESA No.208 of 2018 (O&M)
Date of decision: 21.09.2018

Rameshwar

... Appellant

vs.

Ramswroop deceased through Legal Heirs and another

.. Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. J.P. Sharma, Advocate
for the appellant.

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Harinder Singh Sidhu, J.

The appellant has filed the present appeal impugning the judgment and orders dated 14.01.2015 of learned Additional Civil Judge, Sr. Division, Narnaul and judgment dated 09.04.2018 of the learned Additional District Judge, Narnaul whereby his 3rd party objections under Order 21 Rule 97 to 102 CPC to the execution petition filed by the respondent have been dismissed.

The decree holder Ramswaroop had filed a suit for specific performance against the judgment debtor Babu Lal based on an agreement to sell 16.08.2002. The suit was decreed vide judgment and decree dated 29.04.2009 of the learned Trial Court. The appeal filed by the judgment debtor was dismissed on 25.10.2010. RSA filed by him was also dismissed. Thereafter, the decree holder filed the execution petition in the year 2009. The objections filed by the Judgment Debtor were also dismissed on 02.01.2013.

The appellant filed third party objections stating that he had purchased the suit land vide sale deed dated 10.11.2003. The actual

physical possession of the land was delivered by the JD to him on the very day of the execution of the sale deed. It was also averred that before purchasing the suit land, he had inquired from the revenue officials, neighbourers and family members of the judgment debtor regarding his file. Further the judgment debtor never disclosed about the pendency of the civil suit between him and the decree holder. It was also his case that judgment and decree has been obtained by the collusion between the decree holder and judgment debtor.

The learned Trial Court dismissed the objections holding that the appellant had purchased the land by sale deed during the pendency of the suit for specific performance instituted by the decree holder and hence the sale in his favour is hit by doctrine of lis-pendence as per Section 52 of the Transfer of Property Act, 1882. The suit was instituted on 06.09.2003 whereas the petitioner had purchased the land vide sale deed dated 10.11.2003.

The appeal filed by the appellant-objector was dismissed by the Learned Additional District Judge, Narnaul. As the sale in favour of the appellant was during the pendency of the suit filed by the respondent, he has no right to remit or obstruct the execution of the decree.

Thus, there is no merit in the appeal and the same is dismissed.

21.09.2018
Atul

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No