

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

**ESA No.37 of 2018 (O&M)
Date of decision : May 28, 2018**

Mrs. Kamlesh (deceased) through her Lrs and others Appellants

Versus

Gaurav Verma and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Adarsh Jain, Advocate for the appellants.

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 ?

KULDIP SINGH J. (ORAL)

Impugned in the present appeal is the order dated 10.04.2018 passed by learned Addl. District Judge, Faridabad, affirming the order dated 12.07.2016 passed by learned Civil Judge (Sr. Divn.), Faridabad, vide which the objections filed by the present appellants were dismissed.

Heard.

A decree for specific performance of the agreement to sell dated 14.10.2004 was passed on 27.09.2011 by the learned Civil Judge (Sr. Divn.), Faridabad. In the said suit, Smt. Dulari Devi, who had died during the pendency of the suit, was sued through her son Gaurav Verma. The appeal against the said judgment and decree was dismissed by the lower appellate Court. Now, in the execution, the daughters of Smt. Dulari Devi have filed objection, claiming that they were not aware about the decree and that there was a collusion between the plaintiff and their brother Gaurav Verma and that they have also filed a separate suit in this regard.

I am of the view that under the amended provisions of CPC,

1908, when defendant Smt. Dulari Devi died, it was the duty of the legal

heirs to come on record. In fact, one of the legal heirs Gaurav Verma son of the deceased came on record and contested the suit. Not only this, he had also filed the appeal against the judgment and decree of the trial Court, where he failed. The present objectors, who are daughters of Smt. Dulari Devi are claiming their rights through Smt. Dulari Devi. Since, Smt. Dulari Devi was represented through one of her legal heirs, therefore, the decree is binding on them. Thus, the ground of collusion in obtaining the decree and the decree is not binding on them, is not available to them. Therefore, there is no illegality of infirmity in the impugned order.

As such, the present appeal is dismissed. Since, the main appeal has been dismissed, therefore, the pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

May 28, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No