

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5726 of 2014 (O&M)

Date of decision: 26.11.2018

Gian Parkash and others

..... Appellants

Versus

Kirpal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Namit Gautam, Advocate
for the appellants.

Mr. S.K. Aneja, Advocate
for respondents No.1 to 3.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in regular second appeal against the judgment passed by the learned First Appellate Court. It is not in dispute that predecessor of the appellants namely Smt. Vidya Raj was defendant in a suit for possession by way of specific performance of the agreement to sell which has been decreed in favour of defendants on 24.04.2002. The aforesaid decree passed by a competent Court of jurisdiction has become final. The sale deed pursuant to the aforesaid decree has already been executed. The plaintiff late Smt. Vidya Raj is one of the judgment-debtors in the aforesaid suit. Now she (successor-in-interest of Smt. Vidya Raj) prays that her possession be protected. This defence was available to the predecessor of the appellants in the previous suit. A decree passed by a competent Court of jurisdiction cannot be allowed to be frustrated in this manner. It has come in evidence that late Smt. Vidya Raj got corrected

khasra girdawari at the back of the defendant-respondent.

The parties pursuant to the decree for possession by way of specific performance of the agreement to sell are co-sharers and if there is any dispute, the co-sharers are at liberty to seek partition. Normally, the injunction against a co-sharer cannot granted to other co-sharer. As noticed above, once she is one of the judgment-debtor, she cannot be permitted to delay the execution of a decree passed by the Court.

In view thereof, there is no ground to interfere.

Appeal is dismissed.

In view of the aforesaid, no further order is required in the application (CM-13571-C-2014) for condoning delay of 555 days.

26.11.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No