

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

110

ESA-1-2019 (O&M)

Date of Decision : 03.09.2019

Ram Kishan

.... Appellant

Versus

Lal Chand (since deceased) through his LR Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Gaurav Mohunta, Advocate
for the appellant.

Mr. Aayush Batra, Advocate for
Mr. P.K.Ganga, Advocate
for LR of respondent.

RAMENDRA JAIN, J. (ORAL)

Appellant-Judgment debtor No.8 has filed the instant execution second appeal against order dated 21.12.2018 of the lower Appellate Court, affirming order of Executing Court dated 23.07.2018, whereby the local commissioner was appointed to execute and register sale deed of suit land in favour of respondent-decree holder.

Briefly, deceased Lal Chand filed a suit for specific performance against the appellant and eight others which after holding the trial was decreed by the trial Court qua half share vide

judgment and decree dated 03.12.1998.

Being aggrieved, the appellant and his co-defendants approached the Ist Appellate Court, who allowing their appeal vide judgment and decree dated 10.08.2001 and reversing the judgment and decree of the trial Court, converting the same into a money decree.

Being aggrieved, respondent-plaintiff approached this Court by way of regular second appeal. This Court after hearing both the sides set aside the judgment and decree of lower Appellate Court and affirmed judgment and decree of the trial Court dated 03.12.1998.

Respondent-plaintiff Lal Chand expired. His legal heirs filed petition for execution of judgment and decree dated 03.12.1998. None of co-defendants of the appellant ever raised any objection to the aforesaid judgment and decree except appellant, which after hearing both the sides was dismissed vide order dated 09.07.2018 by the Executing Court.

The appeal of appellant against the said order was also dismissed vide order dated 21.12.2018. Thereafter, Executing Court vide order dated 23.07.2018 appointed local commissioner for execution and registration of sale deed in favour of the respondents being legal heirs of Lal Chand-plaintiff. The appellant again laid challenge to the said order before the lower Appellate

Court raising grouse that notice was required to be given to him qua preparation of draft sale deed. The Appellate Court, after hearing both the sides, dismissed appeal of the appellant, holding the same to be time barred, inasmuch as, sale deed had already executed in favour of legal heir of decree holder Lal Chand.

Heard.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal merits dismissal for the reason that vide order dated 23.07.2018, the Executing Court had appointing local commissioner for registration and execution of sale deed in favour of the decree holders. The said order could very well be challenged by the appellant in his earlier appeal filed against order dated 09.07.2018, inasmuch as, the same was filed after passing of the impugned order.

I have carefully gone through earlier judgment of the Appellate Court dated 21.11.2018 and the order impugned herein dated 21.12.2018, besides order of the Executing Court dated 09.07.2018 dismissing objections of the appellant, earlier order dated 23.07.2018 and find no illegality or perversity in the same, inasmuch as during the pendency of regular second appeal, appellant sold some specific share out of the suit property to a third person in 2011, and, thus, had left with only the land for which the sale deed has been executed and registered.

Dismissed.

September 03, 2019
anju

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No