

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3398 of 2017

Date of Decision: 11.04.2019

Jagdev Raj

.....Petitioner

Vs.

Kanta Rani and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Madan Sandhu, Advocate,
for the petitioner.

Mr. Jagraj Singh Khiva, Advocate,
for respondents no. 1 and 2.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order dated 18.03.2017 passed by the learned Civil Judge (Senior Division), Mansa, vide which warrants have been ordered to be issued, thereby enabling respondents no. 1 and 2 herein to take possession of a 1/6th share each, in the suit property.

On the day before yesterday, i.e. 09.04.2019, this case had been taken up out of turn on the request of learned counsel for respondents no. 1 and 2 after 04:00 p.m., who had submitted that the respondents have no objection to this petition itself being allowed in favour of the petitioner.

Consequently, I had directed that the petition be put up for hearing in the urgent motion list today, without even looking at the impugned order.

Today, it is seen that the impugned order is to the aforesaid effect.

On query to learned counsel as to whether the respondents are certain that they have no objection to the said order being quashed, thereby rendering the decree issued in favour of the respondents inexecutable, he submits that the respondents have no objection to the said order being set aside, in terms of the prayer made in the present petition, to the effect that the objections filed by the petitioner before the execution Court be decided on merits.

The fact that the objections have not been decided on merits is not denied by counsel for the respondents, as would also be seen to be obvious from the order passed by the execution Court on 05.05.2017, a copy of which is Annexure P-3 with the present petition.

The said order reads as follows:-

“Warrant of possession of 1/6 share each in favour of Kanta Rani and Sunita on the eastern side issued against the JD Jagdev Raj received back unexecuted as premises is locked. The bailiff is directed to break the lock and delivered warrants of possession of 11.07.2017 and counsel for the JD put on record the copy of filing appeal in the hon'ble High Court. Objection has been filed, there is no stay order of any appellate Court. As such warrant of possession be issued for 11.07.2017.”

(Emphasis applied in the present order only).

That being so, this petition is allowed to the extent that the impugned order dated 18.03.2017 is set aside, with the execution Court now directed to pass a reasoned order after considering the objections filed by the petitioner and any reply thereto by the respondents, prior to which no warrants of possession shall be issued, though that Court would positively decide the objections by the end of July 2019.

Any unnecessary adjournment sought by either party will not be entertained by that Court, with the objections therefore to be positively decided by 31.07.2019.

At this stage, learned counsel for the petitioner has pointed out that as a matter of fact respondents no. 1 and 2 were actually proceeded against *ex parte*, in this petition, vide an order passed by this Court on 27.04.2018.

I do not see how that affects the merits of the case, as even upon appearance of respondents counsel now, the order impugned by the petitioner in any case having been set aside.

April 11, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No