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

CR-3515-2017 (O&M)

Date of decision : 10.05.2019

Karamjit Singh Gill

... Petitioner

Versus

Bank of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. Aalok Jagga, Advocate for respondent No.1.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 12.04.2017 (Annexure P-3), whereby the objection (Annexure P-2) of the petitioner against the preliminary decree dated 20.10.2011 (Annexure P-1), has been dismissed.

Learned counsel for the petitioner submitted that the respondent/Bank had filed a suit for recovery of ₹5,91,675/- against four persons, as referred to in the memo of parties of the suit (Annexure P-1), by giving the descriptions of the properties mortgaged as under:-

"(i) Land measuring 14 marlas 3 sarsahies 21 S.ft bounded as under:-

North: Passage,

South: Land property No.2 owned by vendor now Surinder Pal.

East: Rasta Gali,

(ii) Land measuring 1 marlas 3 sarsahies 13 Sq. feet bounded as under:-

North: Land property No.1 owned by vendor now Surinder Pal purchaser,

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South: Land property No.3, owned by vendor now Surinder Pal Purchaser,

East: Land owned by Balwinder Kaur

West: Rasta Gali,

(iii) Land measuring 1 kanal 5 sarsahies 20 Sq. ft. bounded as under

North: Land property No.2 owned by vendor now Surinder Pal purchaser,

South: Land owned by Numberdar Jugraj Singh;

East: Land owned by Balwinder Kaur

West: Rasta Gali

bearing Khasra Nos.123//8/2 (3-123), 9(8-0), 2/4(2-9), $\frac{3}{4}$ (1-7), situated in the area of Moga Mehla Singh,

AND

By sale of hypothecated computer hardwares, machinery, furniture and all electric equipments, Generator Set etc., owned by defendants No.1 to 3. "

The suit aforementioned was decreed by passing a preliminary decree on 20.10.2011, instituted on 09.08.2008. However, in the objection, it was specifically averred and enclosed that the petitioner had already become the co-sharers in respect of the land previously owned by Balwinder Kaur, by virtue of decree dated 18.05.1991 and mutation No.66922, was accordingly, sanctioned. All the aforementioned facts were disclosed and enclosed the documents, but the Court below non-suited the petitioner that the objection was bereft of accompanying any document. The impugned order, under challenge, is totally perverse and fallacious. The issue should have been framed and opportunity to lead the evidence to establish the ownership being third party objection, thus, urges this Court for setting aside the same.

Mr. Aalok Jagga, learned counsel appearing on behalf of the

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respondent No.1-Bank supported the impugned order, under challenge, for, they were premature as defendant was given time to make the payment within specified period, with a rider to sell the property and no such application for preparation of the final decree, has so far been filed. Moreover, the property is neither of the Balwinder Kaur nor of the petitioner, who is alleged to have obtained the decree as it is only descriptions towards east side of property of Balwinder Kaur. Mortgaged property viz-a-viz the land measuring 2 kanals 5 marlas, four Sarasahi, is as per title deed dated 26.05.1986, registered in the office of sub-Registrar, thus, urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Bhalla, for, descriptions, as described above, as well as in the preliminary decree, do not pertain to the property of Balwinder Kaur as her property is adjoining to the property in dispute, by giving her descriptions towards the eastern side of the site plan.

Keeping in view the aforementioned facts and circumstances, the impugned order, under challenge, cannot be said to be fallacious and perverse, much less, no ground is made out for interference. Resultantly, the present revision petition stands dismissed.

10.05.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**