

CR No.745 of 2018(O&M)
Date of Decision: 30.05.2019

.....Petitioners

.....Respondents

Mr. G.S. Bhatia, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.

[1]. Petitioner has challenged the order dated 26.09.2017 passed by executing Court and judgment dated 12.12.2017 passed by Additional District Judge, Sangrur vide which third party objections filed by the petitioners were dismissed concurrently.

[2]. Perusal of the record would show that in a suit for specific performance filed by the plaintiff/respondent No.1 against respondents No.2 to 6, an alternative decree for recovery was passed by Civil Judge (Junior Division), Malerkotla

vide judgment and decree dated 21.01.2011.

[3]. An appeal was preferred by the plaintiff himself before the Lok Adalat presided over by Additional District Judge, Sangrur. A compromise was effected between the parties before the Lok Adalat. On the basis of compromise, trial Court decree was modified. Appeal was allowed and suit for specific performance was decreed on the basis of agreement to sell dated 21.02.2003. Respondents were restrained from executing the sale deed in favour of any other person except the plaintiff. The award was passed. Plaintiff was held entitled to get the sale deed executed from the respondents as per terms and conditions of the agreement to sell dated 21.02.2003 on depositing the balance sale consideration within one month and respondents were held to be bound by their statements suffered in the Court. Respondents were directed to execute the sale deed in terms of agreement to sell dated 21.02.2003, failing which the plaintiff was held entitled to get the sale deed executed and registered with the process of the Court in accordance with law. The award was passed on 22.12.2012 by the Presiding Officer of Lok Adalat, Sangrur.

[4]. Execution was filed by the decree holder/plaintiff wherein objections were filed by the petitioners by referring to some facts. As per facts brought on record, Kharaiti Ram had

three sons namely Amar Nath, Bhim Sain and Ramesh. Kharaiti Ram was the original owner of 116.4/6 sq. yards of land. A writing was executed on 22.08.1956 in favour of Amar Nath and Bhim Sain vide which Bhim Sain sold his half share measuring 58 sq. yards in favour of Narinder and Bhargavi Devi in equal share. The suit land forms part of the share of Bhim Sain which was ultimately devolved upon Bhargavi Devi by virtue of sale. Narinder also sold half share to Abdul Hamid and remaining land measuring 28 sq. yards remained with Bhargavi Devi. After the death of Bhargavi, legal representatives i.e. respondents No.2 to 6 stepped into the shoes of share of Bhargavi Devi. Bhargavi Devi was wife of Amar Nath.

[5]. Learned counsel for the petitioners by referring to some intricate facts, seeks to satisfy this Court that third party objections filed by them are required to be decided by way of following proper procedure of framing issues and leading of evidence.

[6]. In order to appreciate the aforesaid contention, it can be noticed that in the suit proceedings, the petitioners attempted to become party by way of filing application under Order 1 Rule 10 CPC and the same was dismissed. The said order was never assailed by the petitioners and as such, the said decision has attained finality. The decision rendered by the Lok Adalat is

sought to be assailed by the petitioner by way of filing objections. In essence, it is an attempt to challenge the decision passed by the Lok Adalat before the Civil Court in execution.

[7]. It is a settled principle on the strength of **State of Punjab and another Vs. Jalour Singh and others, 2008(1) RCR (Civil) 857, Bhargavi Constructions and another Vs. Kothakapu Muthyam Reddy and others, 2017(4) RCR (Civil) 359** and **Koushal Kumar Govind Aditya Vs. Kishanlal Govind Aditya and others, 2018(5) RCR (Civil) 895 (Chattisgarh)** that the award passed by the Lok Adalat in terms of compromise can only be assailed by way of filing writ petition under Article 226/227 of the Constitution of India in the High Court and that too, on very limited grounds. In strict sense, Lok Adalat is not a Court. It cannot hear the matter on merits and make an award. Lok Adalat decides the case after persuading the parties to arrive at a just settlement and thereafter, gives an award on the basis of that settlement. Lok Adalat cannot decide the case on merits if the parties to the *lis* are not concurring for the compromise. In such a scenario, jurisdiction of the Civil Court is barred.

[8]. Petitioners seek to lay challenge to the award before the executing Court by way of third party objections. Once the petitioners remained unsuccessful in the application under

Order 1 Rule 10 CPC, they cannot maintain objections under Order 21 Rules 97 and 101 CPC in execution of decree. Having accepted the order vide which application under Order 1 Rule 10 CPC was declined, the objectors/petitioners are not entitled to obstruct the decree in execution. Reference can be made to **S.A. Babu Reddy Vs. Munireddy and others, 2015(48) RCR (Civil) 640 (Karnataka)**. Resistance or obstructions made by the third party in execution proceedings can be gone into under Order 21 Rule 97 CPC. Rules 97 to 106 of Order 21 CPC deal with resistance to delivery of possession to the decree holder/purchaser. A third party to the decree who offers resistance would thus fall within the ambit of Rule 101 of Order 21 CPC if an adjudication is warranted as a consequence of the resistance or obstruction made by him to the execution of the decree. The Court is not obliged to determine the question merely because the objector has raised it. The words “all questions arising between the parties to a proceeding on an application under Rule 97” would envelop only such questions as would legally arise for determination between those parties.

[9]. After dismissal of the application under Order 1 Rule 10 CPC filed by the petitioners for becoming party to the *lis*, no such question would legally arise for determination as the petitioners were not party to the *lis* for which execution is being

pressed. Once the order rejecting the application under Order 1 Rule 10 CPC is accepted by the petitioners, the petitioners cannot resist the execution in question in any manner. Reference can be made to **Silverline Forum Pvt. Ltd. Vs. Rajiv Trust and another, AIR 1998 SC 1754, Sri Venkatarayappa Vs. Sri. G Muniyapa and others, AIR 2008 Kar 163** and **Ashan Devi and another Vs. Phulwasi Devi and others, AIR 2004 SC 511.**

[10]. In view of aforesaid legal position, the disputed facts as sought to be projected by the petitioners viz-a-viz the land belonging to the sons of Kharaiti Ram cannot be appreciated in this revision petition. This revision petition is found to be totally devoid of merits and is accordingly dismissed.

30.05.2019

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No