

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

**ESA No. 70 of 2017 (O&M)
Date of Decision: January 11, 2019**

Jagdish Lal

.....APPELLANT(s).

VERSUS

Jaswinder Singh and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Manohar Lall, Advocate
for the appellant.

Mr. S.S. Tiwana, Advocate
for respondent No. 1.

Service of respondent No. 2 dispensed with vide order dated
21.04.2018.

SURINDER GUPTA, J.(Oral)

Heard.

Learned counsel for the appellant submits that appellant Jagdish Lal filed a suit against Bahadur Singh seeking relief of specific performance of the agreement dated 12.02.1998 in which he was allowed alternative relief of recovery of earnest money of ₹55,000/-. No appeal against that judgment was filed by the JD.

Respondent No.1-Jaswinder Singh also filed a suit against Bahadur Singh seeking relief of specific performance of agreement dated 23.04.1996 regarding the same property which was decreed and relief of specific performance of agreement was allowed. The suit of appellant-

Jagdish Lal was decreed vide judgment and decree dated 05.01.2002 while suit filed by Jaswinder Singh was also decreed on 11.06.2003.

In execution, filed by appellant-Jagdish Lal, property of Bahadur Singh was attached and sold by way of auction and decretal amount was paid to the appellant, as such his decree stood fully satisfied. Jaswinder Singh also filed execution in which the objections were filed by the appellant which were accepted by the Executing Court and the execution filed by Jaswinder Singh was dismissed. In appeal, filed by Jaswinder Singh, Ist Appellate Court passed the order as follows:-

- 1) The impugned order dated 3.2.2011 is set aside.*
- 2) The objections filed by the objector Jagdish Lal stand dismissed.*
- 3) The sale certificate in favour of Jagdish Lal in the execution of the judgment and decree dated 5.1.2002, is hereby set aside and the auction proceedings cancelled.*
- 4) The objector Jagdish Lal would be at liberty to either file a fresh execution petition or seek the revival of his execution petition to satisfy judgment and decree dated 5.1.2002 in his favour.*
- 5) The execution petition of Jaswinder Singh is ordered to be revived.*
- 6) The executing court shall proceed further with the execution petition of Jaswinder Singh and proceed further to get the sale deed executed in his favour in the spirit of the judgment and decree dated 11.6.2003.*

Learned counsel for the appellant has argued that a mistake has occurred in the order of Ist Appellate Court while it observed that the sale certificate in favour of Jagdish Lal in execution of the judgment and

decree dated 05.01.2002 is set aside and the auction proceedings are cancelled. In fact, the sale certificate was issued in favour of one Jaswinder Singh son of Karnail Singh, who was not a party to the execution proceedings. As the decretal amount of Jagdish Lal had already been paid to him, his execution stands fully satisfied. He seeks permission to dispose of this appeal with the submissions that the order passed by the Ist Appellate Authority be clarified to the extent that no sale certificate has been issued in the name of the appellant and he has no interest in the property of Bahadur Singh, which was sold in auction.

Learned counsel for the respondents admits the factual position. He has also submitted that the auction purchaser and the subsequent vendee of the auction purchaser were not parties before the Executing Court. Jaswinder Singh will pursue his remedy to this effect before the Executing Court by impleading the auction purchaser and subsequent vendee, if so required.

In view of submissions of learned counsel for the parties, it appears that the appellant has no interest left in the execution filed by Jaswinder Singh. Learned counsel for the appellant could not make out as to why he was advised to file objections. His decree has been fully satisfied. Jaswinder Singh is entitled to take all legal steps provided under the law for the execution of his decree. The order of the Ist Appellate Court that the sale certificate in favour of Jagdish Lal in execution of judgment and decree dated 05.01.2002 is set aside as no sale certificate was issued in his favour. In the event, any adverse order is passed in any

proceedings, at any point of time against appellant, he will be at liberty to avail remedies available under law.

With these observations, this appeal is disposed of.

January 11, 2019.
Jyoti-II

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>