

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 117

Case No. : C. R. No. 5897 of 2019

Date of Decision : September 19, 2019

Smt. Simmi Sarin Petitioner

vs.

S. Sukhwinder Singh (deceased)
through LR and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Rajinder Sharma, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral) :

In the year 2006, respondent no.1 filed a suit seeking therein specific performance of agreement to sell dated 03.11.2005 in respect of the land detailed and described in the head-note of the plaint (for short – the suit property). Permanent injunction to restrain the petitioner and respondent nos. 2 to 4 from constructing, alienating, selling, mortgaging or in any other manner transferring the suit property was also sought. Challenge was also made to sale deeds dated 15.02.2006, 27.03.2006 and 30.05.2007.

On being put to notice, the petitioner and respondent nos. 2 to 4, who were defendants in the suit, put in appearance before the Trial Court and disputed respondent no.1's claim.

After sifting the evidence led by the parties, on 16.11.2015, the

Trial Court decreed respondent no.1's suit. Resultantly, respondent no.2 was directed to execute a sale deed pertaining to the suit property in favour of respondent no.1. The petitioner and respondent no.3 as also respondent no.4 were further directed to forego their claim qua the suit property. The impugned sale deeds were also set aside.

Within the period of limitation, the petitioner filed an appeal against the aforesaid decree of the Trial Court dated 16.11.2015. During the pendency of the appeal, respondent no.1 sought execution of the aforesaid decree of the Trial Court. The petitioner filed an application for stay of proceedings before the Executing Court on the ground that his appeal filed by him against the decree, the execution of which was being sought, was pending. The Executing Court rejected the petitioner's application. Such rejection was challenged by the petitioner before this Court through **CR No. 5676 of 2019 – Simmi Sarin vs. S. Sukhwinder Singh (deceased) through LR and others**, which petition was disposed of on 12.09.2019 with a direction to the Appellate Court to finally adjudicate upon the petitioner's appeal in accordance with law within one month i.e. by 12.10.2019.

In the meanwhile, after the filing of the aforesaid revision petition but before its decision on 12.09.2019, the Executing Court, through the impugned order dated 09.09.2019, has appointed a Local Commissioner to get the sale deed executed in terms of the decree of the Trial Court dated 16.11.2015 against which the petitioner has filed an appeal, which has been ordered by this Court to be disposed of by 12.10.2019.

In the light of the above facts, this Court considers it just and appropriate to dispose of the present petition with a direction to the Executing Court not to proceed with the Execution Petition filed by respondent no. 1 till 12.10.2019 or till such date the Appellate Court finally decides the petitioner's aforesaid appeal.

Disposed of in the above terms.

If respondent no.1 is aggrieved by passing of the present order, she is at liberty to approach this Court by filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

September 19, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>