

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

CM NO.25399-CII of 2019 IN/AND

C.R. No.7740 of 2019 (O&M)

Decided on : December 13th, 2019

Subhash

..... Petitioner

Versus

Rani and another

..... Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Robin Singh Hooda, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (Oral)

CM NO.25399-CII of 2019

Allowed as prayed.

C.R. No.7740 of 2019 (O&M)

This revision has been filed against the impugned order dated 04.11.2019 passed by learned Civil Judge (Jr. Divn.), Rohtak (hereinafter referred to as the 'Ld. Court below') in Execution Case No.24/1-2-2018/21-1-2019 pending before his Court, vide which the objections of the present petitioner filed under Order 21 Rule 97 read with Section 151 CPC, were dismissed.

The petitioner-objector has contended before Ld. Court below that the decretal property was actually obtained by him by way of a family partition, after which he was residing in the said house from where he shifted to Jhajjar in the year 2010 and had given the house on rent to the judgement-

debtor-Somvir, who subsequently sold the same in favour of the decree-holder illegally. According to him neither the Judgment Debtor nor the decree-holder had any valid right, title or interest in the decretal premises.

Ld. Court below, however, dismissed the petitioner's objections by observing *inter alia* as under:-

“ Furthermore, the objector has not filed any document or title or any other document in support of his submissions of ownership as to how *prima-facie* that he in fact, is owner of the suit property. There is no specific recital about the documents of ownership of property in the application. Rather, the objector has ample time and opportunity to raise objections and to contest such trial and execution proceedings which are based upon the agreement dated 14.01.2013 and culminated in judgement and decree dated 06.09.2017. In the absence of any *prima-facie* document, this Court can not assume or presume that the ownership of suit property lies with the objector when the decree-holder has the Court decree in his favour. Therefore, no question of fact for determination has arisen and this Court considers that no issue is required to be framed for determination of the present objection. Accordingly the objections are dismissed. ”

This Court has no reason to take any different view from that of the learned Executing Court below.

Neither there is any document to support the story of the family partition in favour of the petitioner's claim as made in his objections, nor his

alleged tenant/judgment-debtor had ever claimed to be a tenant in the long-contested legal proceedings involving the suit for specific performance.

It has been contended on behalf of the petitioner that the property in question being situated in *Lal Dora*, there cannot be any revenue records drawn up in his favour. Be that as it may, if the petitioner had been actually residing in the disputed premises as claimed by him for many years till the year 2010, or that the same was in occupation of his other family members prior to that, he could have shown some other documents, such as in the form of personal or family correspondence received or issued from the said address, or existence of any electrical connections etc., either in his name or in the name of any of his family members, but no such material has come on record.

The affidavits of the neighbours, which have been annexed with the present appeal, were not annexed alongwith the original petition of objections, and as such there is no scope for this Court to entertain the same at this stage and deny the fruits of the decree to the respondent/decree-holder, after all this period of time.

Thus, finding no merits in the present revision, the same is hereby dismissed.

All the pending miscellaneous applications also stand disposed off, accordingly.

December 13th, 2019

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(SUDIP AHLUWALIA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No