

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

CR No.1609 of 2020 (O&M)
Date of decision: 5th March, 2020

Pawan Kumar & another

... Petitioners

Versus

Sheela Devi @ Sheela Rani & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.K. Choudhary, Advocate for the petitioners.

FATEH DEEP SINGH, J.

The Court of learned Addl. Civil Judge (Senior Division), Pathankot through judgment and decree dated 12.05.2011, in which defendants No.1 and 2 were represented whereas defence of defendant No.3 was struck off, has decreed the suit with costs holding the plaintiff to be owner of the land detailed in the judgment and further that the sale deed dated 05.04.2011 was not binding on the rights of the plaintiff and mutation qua the same was inoperative and illegal, restraining the defendants No.1 and 2 from alienating the land.

Heard Mr. S.K. Choudhary, Advocate for the petitioners and perused the records.

It is not displaced that the said judgment and decree has attained finality. In the execution application filed by decree-holder Sheela Devi, one Pawan Kumar and Sham Lal, a third party, had filed objections. The claim of the objectors was that the impugned judgment and decree was passed at their back and they were not aware of the same

being a collusive one between the decree-holder and the judgment debtor. The Court of learned Addl. Civil Judge (Senior Division), Pathankot through impugned judgment and decree dated 19.12.2019 dismissed the objections against which the third party has come up in this revision.

Appreciating the submissions of learned counsel for the petitioners. The plaintiff had filed the suit on 20.10.2011 challenging the sale deed dated 05.04.2011 in which the judgment and decree was passed on 12.05.2017. It is the own stand and claim of the petitioners/objectors that they had purchased the property, subject matter of the suit, during the pendency of the suit and therefore cannot by any means defeat the rights of the plaintiff by such objections being unaware of the pendency of the suit. The objectors were well within their rights, if so, to have challenged the judgment and decree in a Court of law through a civil suit which even otherwise in view of Order XXI Rule 102 CPC debars an objector from reopening the claim over title of a property after institution of the suit. Thus, apparently nothing conceivable is there in favour of the objector. This Court could not come across any illegality or perversity in the impugned findings. As such, upholding the same, the present petition stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

March 5, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No