

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

110

CR-2352-2018

Date of decision : 18.07.2022

Harjinder Singh

...Petitioner

Versus

Balwinder Singh and others

....Respondents

2.

CR-2294-2018

Date of decision : 18.07.2022

Manjit Kaur

...Petitioner

Versus

Balwinder Singh and others

....Respondents

3.

CR-2298-2018

Date of decision : 18.07.2022

Manjit Kaur

...Petitioner

Versus

Balwinder Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Shamsher Singh Gill, Advocate,
for the petitioner.

Mr. Rajender Kumar, Advocate
for respondent No.1.

Mr. Devinder Kaushal, Advocate
for respondents No.2 and 3.

ANIL KSHETARPAL, J. (ORAL)

These three connected revision petitions have been filed by

the decree holder of many money (Recovery) decrees, which have become final. The Executing Court while passing the identical orders has dismissed the execution petition on the ground that the property that is sought to be attached and sold does not belong to the judgment debtor, who is common in all the three revision petitions. Sh. Balwinder Singh son of Sh. Sukhdev Singh is the judgment debtor, in all the three decrees. His father Sh. Sukhdev Singh died on 29.07.2010, while leaving behind certain properties. The objection petition was filed claiming that Sh. Balwinder Singh was never an owner of the property as Sh. Sukhdev Singh bequeathed his property in favour of Sh. Kulwinder Singh son of Sh. Sukhdev Singh and children of Sh. Balwinder Singh. While filing the reply, the petitioner (decree holder) claimed that the alleged Will is forged and fabricated and is being put forth in order to circumvent in execution of the decree. The Executing Court has allowed the objection petition without dealing with the aforesaid question. In the present case, Sh. Sukhwinder Singh died prior to the passing of the decree. Once there was a dispute on the question of fact, the Executing Court was required to give opportunity to the decree holder to prove that fact. In such circumstances, the Executing Court should have culled out the issues and permitted the parties to lead evidence. A decree passed by the Court cannot be permitted to be defeated without granting an opportunity to the decree holder.

Learned counsel representing the respondents submits that the order under challenge is appealable. It is noted here that these three revision petitions were filed in the year 2018. The Court entertained the

same without noticing this fact. At this stage, it would not be appropriate to relegate the petitioner to the remedy of appeal, if any maintainable. Hence, this Court will proceed to decide the revision petition on merits.

In view of the limited issue involved in the present case, the orders under challenge in all the three revision petitions are set aside. The Executing Court is requested to cull out the issue on the question of validity of the Will and grant opportunity to the parties to lead their evidence in support of their case.

With these observations, all these three revision petitions are allowed.

18.07.2022
anju

(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No