

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-6237 of 2016 (O&M)
Date of decision: 29.09.2022

Ramesh Jain

..Petitioner

Versus

Meera Devi and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Advocate, for the petitioner

Mr. Prince Goyal, Advocate, Legal Aid Counsel
for respondent no.1

ANIL KSHETARPAL, J(Oral)

An execution petition filed for executing the decree passed on the basis of a compromise has been dismissed by the Court vide order dated 03.05.2016.

Some facts are required to be noticed.

Smt. Maina Devi wife of Sh. Surender Singh was the owner of plot measuring 100 sq. yards comprised in khasra no.14(4-0-0). Sh. Ramesh Jain, the petitioner, claims that he entered into an agreement to sell with Smt. Maina Devi with respect to the aforesaid plot. On the basis of the aforesaid agreement, Sh. Ramesh Jain entered into the further agreement in favour of Smt. Meera Devi wife of Sh. Rajender Singh. Sh. Ramesh Jain filed a suit for grant of decree of mandatory injunction directing the defendants to get the sale deed executed and registered in his favour with respect to the plot in dispute. In the aforesaid suit, Smt. Maina Devi as well as Smt. Meera Devi were contesting as defendants. During the pendency of the suit, an out of court settlement was arrived at wherein the reciprocal promises were made by all the three parties. The plaintiff as well as the

proforma defendant i.e. Sh. Ramesh Jain and Smt. Maina Devi undertook to inform Smt. Meera Devi about obtaining the 'No Objection Certificate' in writing to enable the registration of the sale deed. The suit was disposed of in terms of the compromise which was made the part of the decree.

On the one hand, Smt. Meera Devi claims that neither the possession of the 100 sq. yard plot comprised in khasra no.14 has been delivered to her nor Sh. Ramesh Jain and Smt. Maina Devi have got issued any 'No Objection Certificate'.

An execution petition was filed by Sh. Ramesh Jain. During its pendency, he filed an application under Section 28 of the Specific Relief Act, 1963 for rescission of the contract between him and Smt. Meera Devi. The same was dismissed on 03.10.2015 by a detailed order. As already noticed, vide order dated 03.05.2016, the court has dismissed the execution petition as Sh. Ramesh Jain and Smt. Maina Devi have failed to obtain a valid No Objection Certificate in terms of the deed of settlement dated 10.09.2008. The court has observed that the plaintiff cannot be permitted to take benefit of his own wrong.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner contends that the Executing Court is bound to implement the decree irrespective of whatever facts. He submits that once the decree has been passed, the court cannot dismiss the execution petition, except the decree passed is nullity.

On the other hand, the learned counsel representing the respondent, who has been deputed by the Legal Services Authority, contends that the plaintiff Sh. Ramesh Jain and defendant no.2 Smt. Maina Devi are

not honouring the deed of settlement, therefore, the Executing Court has correctly dismissed the execution petition.

On careful reading of the paper book, it has come on record that initially the No Objection Certificate was issued in favour of Smt. Maina Devi with respect to the property in dispute. However, subsequently, it was cancelled on the allegations that the same has been obtained on furnishing false and incorrect documents.

The decree passed by the court is on the basis of out of Court settlement between the parties. In other words, an agreement between the parties has been presented in the court on which the court has impressed its seal. It is also evident that Sh. Ramesh Jain has never filed a suit for the specific performance of the agreement to sell. Moreover, the application under section 28 of the Specific Relief Act, 1963, is maintainable in the Civil Court and not in the Executing Court. Additionally, once the Smt. Maina Devi and Sh. Ramesh Jain have agreed to obtain the 'No Objection Certificate' from the Municipal Corporation for facilitating the registration of the sale deed in favour of Smt. Meera Devi, they cannot resile therefrom.

In these abovesaid circumstances, the Executing Court has correctly dismissed the execution petition.

Hence no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

September 29, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*