

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7763 of 2018 (O&M)
Date of decision: 09.11.2022

Jaspal Singh

..Petitioner

Versus

Satinder Singh Mehta (deceased) through Lrs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajeshwar Singh Thakur, Advocate
for the petitioner.

Mr. Dhruv Mittal, Advocate
for respondent no.1(iii)

Mr. Aakash Singla, Advocate
for respondent no.2 and 4

ANIL KSHETARPAL, J(Oral)

1. Ms. Supriya Garg, Advocate, submits that she has instructions to withdraw her power of attorney on behalf of the petitioner.
2. Ordered accordingly.
3. In a third party objection, the Executing Court has culled out the issues while calling upon the parties to lead evidence. Questioning its correctness, this revision petition has been filed.
4. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.
5. The learned counsel representing the petitioner submits that an application filed by the respondents for their impleadment in a suit for possession by way of specific performance of the agreement to sell was dismissed and the assertions made in the application filed under Order 1

Rule 10 CPC and the objections are identical.

6. It is evident from the reading of the objections that the respondents are claiming title in the property on the basis of registered sale deeds. The learned counsel representing the petitioner submits that there was no corresponding mutation entry.

7. The title over immovable property is transferred by the vendor in favour of the vendee by a registered document as provided under Section 54 of the Transfer of Property Act, 1882 read with Section 17 of the Registration Act, 1908. The mutation of the property in the revenue record is only for its updation and for recovery of the land revenue, if payable. The title of the property does not vanish merely because a mutation has not been entered or wrong/incorrect mutation has been entered. Moreover, in a suit for possession by way of specific performance of the agreement to sell, the ownership of the vendor, who entered into an agreement to sell, is not required to be decided. The respondents claim right, title and interest in the property on the strength of registered sale deeds. Hence, they have a right to maintain an objection petition. Moreover, the Executing Court, in the impugned order, has only called upon the parties to lead evidence after culling out the issues, which read as under:-

- “1. Whether Shri Ranbir Singh Mehta has sold his entire land measuring 50K-18M to the objectors vide alleged sale deeds no.97, 98, dated 13.1.1961?OPO*
- 2. Whether the objectors are owner in possession of the property in question on the basis of said sale deeds?OPO*
- 3. Whether the JD was not competent to execute the sale deed?OPO*

4. *Whether the objections are not maintainable?OPDH*

5. *Whether the objectors have no locus standi to file the present objections?OPDH*

6. *Relief.”*

8. The objection of the learned counsel representing the petitioner that a similar application under Order 1 Rule 10 CPC filed by the respondents was dismissed does not have substance because in a suit for possession by way of specific performance of the agreement to sell, the parties to the contract are the only necessary parties.

9. Additionally, an order dismissing the application under Order 1 Rule 10 CPC cannot operate as resjudicata against the respondents.

10. Dismissed.

11. However, the Executing Court is requested to expedite the proceedings.

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

November 09, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*