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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.2570-2022 (O&M)
Date of Decision:11.07.2022

Khuspreet Kaur

.. Petitioner

Vs.

Gurmail Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. J.K. Singla, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

The petitioner has invoked the Superintendence powers of this Court under Article 227 Constitution of India to challenge the order dated 05.01.2022, whereby the execution petition filed by her under Order 21 Rule 32 CPC was dismissed.

Learned counsel for the petitioner has argued that Khuspreet Kaur-petitioner being daughter of respondent No.1 Gurmail Singh had instituted the civil suit against her father and others seeking maintenance etc. During pendency of the suit, the parties arrived at a compromise on 28.01.2012, who agreed to bear the expenses relating to petitioner's education, marriage etc. and besides this he also agreed to keep her in his house. The respondent No.1 had also assured that he would not alienate the property and on the basis of said compromise, the suit was withdrawn on 03.03.2012 (Annexure P-5).

Learned counsel has further argued that the Gurmail Singh-respondent No.1, who is bound by his own statement has violated the terms of a compromise, therefore, the petitioner was compelled to file execution petition, but the same has been wrongly dismissed by Addl. Civil Judge

(Sr.Div.), Sardulgarh vide impugned order dated 05.01.2022. He submits that the impugned order deserves to be set aside.

During the course of hearing, it is not disputed by learned counsel that when the compromise was arrived at between the parties, the same was neither brought on record of the civil suit nor any decree was drawn pursuant to the decision dated 03.03.2012.

After hearing the learned counsel and considering the material on record, this Court finds that the execution petition filed by the petitioner was not maintainable, as admittedly, no decree was passed by the Civil Court while deciding the Civil Suit No.21 dated 02.08.2016 titled as Khuspreet Kaur Vs. Gurmail Singh and others.

Further, a perusal of the reply dated 17.04.2017 (Annexure P-9) to the execution petition shows that the respondents had taken a specific preliminary objection that as there is no decree, therefore, the execution is not maintainable, but unfortunately the Executing Court without applying its judicial mind mechanically continued with the proceedings and even allowed the parties to lead their respective evidence, before finally dismissing it after five years on 05.01.2022 holding it to be not maintainable.

Considering the above, this Court finds that the impugned order dated 05.01.2022 does not suffer from any illegality or impropriety, therefore, no interference is warranted by invoking superintendence powers.

Dismissed.

11.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No