

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

CR-3058-2022 (O&M)

Date of decision : 03.08.2022

Bhajan Kaur

...Petitioner

Vs.

Prem Dass and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this revision petition to challenge the order dated 11.04.2022 passed in execution petition bearing No.521/2017, whereby Civil Judge (Junior Division), Jalandhar while dismissing the objections of the petitioner has issued warrants of possession.

Learned counsel has argued that the execution arises from a suit bearing No.3137/2013 filed by Prem Dass (vendee) against Kailash Nath (vendor) seeking specific performance of the agreement to sell dated 26.11.2005, wherein petitioner (tenant) was also party as defendant No.5 and the said suit was decreed in favour of plaintiff vide judgment and decree dated 09.10.2017. He submits that the said judgment and decree was never challenged by Kailash Nath (contesting defendant), but the appeal filed by the petitioner (tenant) is pending before the first appellate Court. He submits that previously the suit filed by petitioner against Kailash Nath seeking permanent injunction was decreed, but after the decree dated 09.10.2017, the decree-holder (Prem Dass) has preferred execution, wherein the objections filed by the petitioner have been dismissed.

Learned counsel submits that the property in question, where the petitioner is residing is different than the property in the decree, therefore, the objections filed by the petitioner could not have been dismissed. He submits that the impugned order deserves to be dismissed.

After hearing learned counsel and considering the above background, this Court finds that the petitioner was only a proper party as far as the dispute between the plaintiff and defendant No.1 relating to the agreement to sell is concerned. In the said suit, petitioner never led any evidence much less relating to the agreement to sell or questioned the identity of property in her possession, but had filed the objections after execution of the sale deed. The argument of the learned counsel that previously her suit seeking permanent injunction was decreed in her favour against Kailash Nath is irrelevant as the present execution proceedings seeking enforcement of decree, is in accordance with law. Mere pendency of the appeal filed on behalf of the petitioner against the judgment and decree dated 09.10.2017 is of no consequence, particularly when she had led no evidence during the suit proceedings, wherein her defence was also struck off.

Thus, the impugned order does not suffer from illegality or impropriety.

Resultantly, petition fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

03.08.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No

