

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

CR-5805-2022(O&M)

Date of decision:-9.12.2022

Balwant Singh

...Petitioner

Versus

Sukhmander Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Gobind Rai Sharma, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

1. Briefly stated, facts of the case are that plaintiff Sadhu Singh had filed a suit for recovery of Rs.3,00,000/- along with interest and cost against defendant Sukhmander Singh on the basis of pronote and receipt; that civil suit filed on 4.10.2018 was decreed on 26.3.2019; the plaintiff-decree-holder filed an execution application in which warrants of attachment of properties belonging to respondent JD were issued and Balwant Singh and Balwinder Singh appeared and filed third party objections against the attachment contending that they had filed a civil suit against Sukhmander Singh – respondent/JD; the matter had been compromised and Sukhmander Singh had executed regular sale deeds in favour of the objectors on 22.2.2019; that property has been wrongly got attached by the plaintiff decree-holder; the objectors were not having any litigation between decree-holder and JD, therefore, attachment over the

property be released.

2. The objections were contested by the decree-holder contending that the objection petition has been filed with a malafide intention just to harass the decree-holder when the decree holder had filed a suit for recovery of Rs.3,43,500/-, he had moved an application under Order XXXVIII Rule 5 CPC as well as Order XXXIX Rules 1 and 2 CPC for attachment of the property before the judgment, in which the Court granted ad interim injunction in favour of the decree holder on 4.10.2018; that matter was within the knowledge of the present objectors; the property of the JD was attached as per orders passed by the Court before judgment; JD was duly served and he was having due knowledge regarding the attachment but he intentionally with malafide intention did not appear and he was proceeded against ex-parte. The decree holder prayed for dismissal of the objections.

3. The Executing Court vide a a detailed order dated 1.4.2022 dismissed the objections for various reasons observing that property of JD had been attached on 26.8.2019 and stay order in that regard had been passed by Additional Civil Judge (Sr.Divn.), Nihal Singh Wala on 4.10.2018, in that way the stay order had been passed prior to attachment of the suit property; the sale deeds set up by the objectors are dated 22.2.2019 i.e. after the passing of stay order passed by the Court; in those sale deeds specific notes have been appended, which show that both the parties i.e. purchaser and seller had knowledge about the stay order with regard to the suit property and both the parties were ready to get the sale deed executed; that decree holder Sadhu Singh was not party to the

compromise. Therefore, the objections were dismissed leaving the objector Balwant Singh aggrieved and he has approached this Court by way of filing the present revision petition.

4. I have heard learned counsel for the petitioner besides going through the record and I find that there is no merit in the revision petition.

5. It is very surprising that Sukhmander Singh, who was defendant in the civil suit for recovery filed by Sadhu Singh against whom an interim injunction had been granted by the Court not to alienate the suit property, in complete defiance of that order the defendant had executed the sale deeds in favour of the objectors during the pendency of the suit. There is absolutely no doubt that objectors were also aware of the stay order passed against Sukhmander Singh with respect to his property, which had been attached on 26.8.2019. Even then, they went ahead to get the sale deeds executed in their favour. Such type of persons, who openly defy the orders passed by the Court and purchase the property, which is subject matter of the litigation cannot come up with a plea of being bonafide purchaser for consideration, as such protected under law. Their objections were rightly dismissed by the Executing Court.

6. The order passed by the Executing Court is quite detailed and well reasoned and does not suffer from any illegality or infirmity. There is absolutely no merit in the revision and it stands dismissed accordingly.

However, it is observed that Sukhmander Singh JD and the objectors including Balwant Singh, who is revisionist before this Court seem to have violated the stay order passed by Additional Civil Judge (Sr.Divn.), Nihal Singh Wala, rendering them liable to be proceeded

against for contempt of the Court, the Executing Court or the decree holder may consider the desirability of initiating contempt proceedings against the JD and objectors, if so advised.

9.12.2022

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No