

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(224)

CR No. 1867 of 2014

Date of Decision : 09.05.2023

Shaheed-E-Aazam Printing Press Pvt. Ltd., Patiala

...Petitioner

Versus

M/s Sood Sons Tractors, The Mall, Patiala and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Animesh Sharma, Advocate for the petitioner.

Mr. Sanjiv Gupta, Advocate for respondent No. 1.

None for respondents No. 2 to 39.

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**Harsimran Singh Sethi J. (Oral)**

1. In the present civil revision petition, the challenge is to the order dated 26.02.2014 (Annexure P-12) by which the application filed by the petitioner for leading additional evidence has been dismissed.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The respondent No. 1 filed a suit seeking possession of land measuring approximately 4000 sq. yards in the year 1982, which suit was decreed on 01.09.1986. The defendant in the said suit filed an appeal and in the said appeal, respondent No. 1 suffered a statement that certain part of the suit land which was decreed in favour of respondent No. 1, had already been sold by him. Keeping in view the said statement, the decree of the trial

court dated 01.09.1986 was modified accordingly and a direction was issued

to give the possession of the suit land in question except already sold.

4. In order to execute the judgment and decree of the trial court, as modified by the lower appellate court, respondent No. 1 filed an execution petition and during the execution proceedings, respondent No. 1 suffered the statement that the suit land already sold, will not be claimed in the execution proceedings.

5. The petitioner had purchased a land measuring 149.9 sq. yards from one Amarjit Singh Pal vide sale deed dated 27.08.2008. The said Amarjit Singh Pal had purchased the said land from one Jagir Kaur, who had in fact purchased the said land from respondent No. 1 vide sale deed dated 26.02.1973.

6. During the execution proceedings, while respondent No. 1 was being cross-examined, the said sale deed dated 26.02.1973 was put to him that he cannot raise claim over the said property keeping in view the statement already suffered that the property sold by respondent No. 1 will not be claimed in execution proceedings, he cannot claim the said land in execution proceedings. Even the photocopy of the said sale deed was shown to him, which sale deed was denied by him being forged.

7. At that stage, an application was moved by the petitioner for leading additional evidence to bring on record the original sale deed dated 26.02.1973 so as to rebut the claim of respondent No. 1 to claim possession of the said portion of land in execution proceedings. The application filed for leading additional evidence was rejected by the Executing Court on 26.02.2014, which order is under challenge in the present civil revision petition.

8. Learned counsel for the petitioner argues that in the present case, once a statement was already made by respondent No. 1 that he will not raise claim for possession over the portion of suit land, though part of the decree but was already sold by him and only to prove that the portion of suit land, which is in possession of the petitioner being the owner, had already been sold by respondent No. 1 as far back as 26.02.1973 to one Jagir Kaur, who had subsequently sold to the same to Amarjit Singh Pal and ultimately, the said portion of land was purchased by the petitioner.

9. Learned counsel argues that in order to do the justice between the parties, the said document was necessary to be brought on record keeping in view the denial by respondent No. 1 with regard to the said sale deed, hence, the impugned passed by the trial court dated 26.02.2014 (Annexure P-12) is liable to be set-aside.

10. Learned counsel for the respondent No. 1 submits that the sale deed dated 26.02.1993 is being disputed even as of now. Learned counsel further submits that the original sale deed should have been produced whereas only the photocopy of the same was shown to respondent No. 1 during his cross-examination, hence, at this belated stage, the production of additional evidence has rightly been rejected by the Executing Court.

11. I have heard learned counsel for the parties and have gone through the record with their able assistance.

12. It is a conceded position that respondent No. 1 even during the execution proceedings, had suffered a statement that the land which has already been sold by him, will not be claimed in the execution proceedings.

The question which arises in this petition is whether keeping in view the

said statement of respondent No. 1, there is any right with the respondent No. 1 to claim the possession of 149.9 Sq. yards from the plaintiff keeping in view the sale deed dated 26.02.1973. Executing Court should have allowed the original sale deed dated 26.02.1973 to be produced so as to do justice with the parties. Merely that the said sale deed should have been produced when the photocopy was produced, is no ground to deny a particular benefit which exist with a party concerned, hence, the view taken by the Executing Court while passing the order dated 26.02.2014 (Annexure P-12) is not correct and the order is set-aside. The application filed by the petitioner for producing additional evidence is allowed. The trial Court is directed to give due opportunity to the respondents to rebut the said document.

13. Further, as the parties are litigating since long and the present revision petition is also pending in this Court for the last 09 years, it would be appreciated if the execution proceedings reached to the final conclusion as expeditiously as possible.

14. Parties are directed to appear before the trial court on 24.07.2023 for conducting further proceedings in the execution proceedings.

**May 09, 2023**  
*kanchan*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

*Whether speaking/reasoned : Yes/No*

*Whether reportable : Yes/No*