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

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Date of decision : 07.07.2023

Balwinder Singh

..... Petitioner

Versus

Beero (Since deceased through Legal Heirs) & Another

..... Respondents

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

None for the respondents.

AMARJOT BHATTI J. (ORAL)

Balwinder Singh – petitioner has filed revision against impugned order dated 13.04.2018 (Annexure P-7) passed by learned Civil Judge Senior Division, Tarn Taran vide which the Court has issued warrants of possession and for setting aside order dated 13.04.2018 (Annexure P-8) vide which the said Court has ordered to deposit subsistence allowance for the civil imprisonment of petitioner/JD.

2. It is submitted that Beero, mother of the respondents filed Civil Suit bearing No. 448/1996 i.e. suit for declaration regarding ownership of house in dispute against the petitioners which was decreed in her favour on 07.06.2000 by learned Civil Judge (Jr. Division), Tarn Taran. The copy of judgment is Annexure P-1. Jasbir Singh and Balwinder Singh sons of Kartar Singh filed appeal against the said order which was also dismissed. The legal heirs of Beero i.e. the respondents filed petition under Order 21 Rule 32 of Civil Procedure Code, 1908

for execution of decree dated 07.06.2000. The copy of petition is Annexure P-2. Apart from civil litigation, there was criminal litigation going on between the parties. One FIR No. 52 dated 19.06.2007 was registered under Sections 324, 34 of Indian Penal Code against the respondent, whereas, the cross-version was recorded from the side of respondent under Sections 326, 325, 324, 323, 34 of Indian Penal Code against the petitioner side regarding the same occurrence. Thereafter, with the intervention of relatives and other respectables, the matter was compromised between the parties and it was decided to end the litigation by withdrawing their respective cases. The copy of compromise is Annexure P-3. On the basis of compromise, the FIR and the cross-version were quashed vide order dated 15.11.2017, which is Annexure P-4. There was another civil case titled “Seema Kaur Vs Balwinder Singh”, which was withdrawn by the petitioner on 12.11.2016 in lieu of said compromise. Thereafter, the respondent did not withdraw the petition under Order 21 Rule 32 of Civil Procedure Code, 1908 despite the aforesaid compromise. The copy of objections filed by the present petitioner/Judgment Debtor is Annexure P-5. The reply submitted by the Decree Holder is Annexure P-6. However, the objections were dismissed vide impugned order dated 13.04.2018, which is Annexure P-7. The Court has further ordered to deposit subsistence allowance for civil imprisonment of Judgment Debtor. The copy of order dated 13.04.2018 is Annexure P-8. It is argued that once the matter was compromised between the parties, the respondents were duty bound to withdraw the present petition. The learned Court of Civil Judge (Sr. Division), Tarn Taran has failed to consider this aspect and wrongly declined the objections vide impugned order dated 13.04.2018 (Annexure P-7) and the order regarding deposit of subsistence allowance of the same date (Annexure P-8) is without

justification. It is prayed that the aforesaid orders are liable to be set aside on the basis of compromise dated 31.10.2016, which is Annexure P-3.

3. I have considered the arguments advanced by learned counsel for the petitioner and have carefully gone through the documents relied upon by learned counsel for the petitioner. The petitioner admitted that Beero, mother of the respondents filed civil suit seeking declaration regarding ownership of the house which was decreed in her favour vide judgment dated 07.06.2000. Copy of this judgment is Annexure P-1 and it is also conceded that the appeal was also dismissed. Thereafter, the legal heirs of Beero filed application under Order 21 Rule 32 of Civil Procedure Code, 1908 for the execution of aforesaid decree. The learned counsel for the petitioner has relied upon one compromise dated 31.10.2016 on the basis of which it is argued that the execution cannot proceed further as the respondents/Decree Holders are bound to withdraw the said execution. It is also matter of record that one FIR and cross-version was registered against the petitioner and the respondents which was later on compromised and thereafter, the FIR and cross-version were quashed in Criminal Misc. No.M-41143 of 2016, Criminal Misc. No.M-41234 of 2016, vide order dated 15.11.2017, which is Annexure P-4. I have also gone through the contents of compromise dated 31.10.2016 (Annexure P-3) where there is specific reference of compromise regarding the aforesaid FIR and the cross-version. There is reference of civil litigation in the compromise, according to which the parties had agreed that both the parties will vacate the house till 31.01.2017 and it shall be sold and if both the parties agreed then they can remove the building material and their respective vacant side can be sold. As per clause 2, both the parties shall withdraw their respective cases and as per clause 3, after sale of 7 marlas, it shall be given to first

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party i.e. Balwinder Singh s/o Kartar Singh and others and second party i.e. Balwinder Singh s/o Gurbax Singh and others shall be given cash amount. Now in pursuance of this compromise, both the parties were required to perform their part of condition detailed in the compromise. The reply to the objection clarifies that the present petitioner had failed to perform their part of compromise, as a result of which the civil litigation was not withdrawn as decided in the compromise dated 31.10.2016, clause 2. The petition under Order 21 Rule 32 read with Section 151 of Civil Procedure Code, 1908 was filed by the legal heirs of Beero. On 17.05.2013, the terms of compromise could not materialize, therefore, the execution was proceeded with and accordingly, the objections were rightly declined by learned Additional Civil Judge (Sr. Division) by passing impugned order dated 13.04.2018. In the absence of compromise, the Executing Court is bound to execute the decree dated 07.06.2000 in favour of Smt. Beero, now represented through her legal heirs. Therefore, I do not find any reason to interfere in the impugned order dated 13.04.2018, Annexure P-7 and Annexure P-8 and the same are accordingly upheld and the civil revision filed by the petitioner is accordingly, declined.

(AMARJOT BHATTI)
JUDGE

07.07.2023

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