

2023:PHHC:150926

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

CR-7522-2016 (O&M)
Date of decision: 28.11.2023

Baljinder Singh and others

...Petitioners

Versus

Smt. Murti Devi and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vikas Chaudhary, Advocate for
the petitioners

Mr.Siddharth Gulati, Advocate for respondent no.2

ANIL KSHETARPAL, J (Oral)

1. A final decree for partition was passed on 14.02.2011. The petitioners filed the execution petition. In the aforesaid execution petition, the petitioners and the respondents jointly made a statement that the execution petition can be dismissed as fully satisfied. The statement of one of the decree-holder and the judgment debtors was recorded. It was noted that the judgment debtor has already delivered the possession to the decree-holder. Thus, the execution petition was dismissed as fully satisfied. Thereafter, the petitioners filed an application for revival of the execution petition, which has been dismissed by the Executing Court.

2. Learned counsel representing the petitioners submits that the judgment debtor has played a fraud with them and the possession was not delivered to them.

3. On the other hand, the learned counsel representing respondent no.2 submits that the decree-holder and the judgment debtor are closely related and in fact, the judgment debtor has sold the property in favour of the respondent (objector) prior to the filing of the suit. However, a formal agreement to sell was executed on 17.03.2008. The Executing Court, after granting opportunity to the parties to lead evidence, has come to a conclusion that the decree-holders themselves made a voluntary statement that the possession has been delivered. Hence, it would not be appropriate to revive the execution petition.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook. On a Court question, the learned counsel representing the petitioners admits that judgment debtor Smt. Murti Devi is the maternal aunt of the petitioners. It is also not disputed by the learned counsel representing the petitioners that the decree-holder made a statement in the Court that the possession has been delivered to them, which resulted in dismissal of the execution petition on 28.01.2012. In these circumstances, no ground to interfere with the order passed by the Executing Court is made out.

5. Hence, dismissed.
6. All the pending miscellaneous applications, if any, are
also disposed of.

28.11.2023
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No