

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

CR-605-2023

Date of decision:-31.1.2023

Shivender and others

...Petitioners

Versus

Om Parkash and others

...Respondents

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

Present: Mr.Sudhir Aggarwal, Advocate
for the petitioners.

H.S. MADAAN, J.

1. Under challenge in this revision petition is order dated 6.1.2023 passed by Civil Judge (Jr.Divn.), Sohna vide which the objections filed by the JDs had been dismissed. Such JDs are revision petitioners before this Court.

2. Briefly stated, facts of the case are that plaintiff Om Parkash and others had brought a civil suit against Shivender and others for specific performance of agreement to sell dated 28.12.2005 said to have been entered between plaintiffs and Ramesh Chand – deceased, predecessor-in-interest of the defendants. That Civil Suit bearing No.77 of 2008 was decreed on 16.3.2019.

3. The plaintiffs had filed an application for execution of the judgment and decree passed in their favour and on getting notice thereof the defendants/JDs put in appearance and they had preferred objections to the execution under Section 47 CPC contending that the decree passed by

the Court was not executable as there was no privity of contract between the decree holders and JDs since the alleged agreement to sell did not contain a recital that it would be binding upon the LRs of late Sh.Ramesh Chand; as a matter of fact on account of illness of Ramesh Chand he was not in a position to execute agreement to sell; Ramesh Chand had died on 30.1.2006 etc.

4. Those objections were resisted by the decree holders. Vide the impugned order dated 6.1.2023, the objections were dismissed, leaving the JDs aggrieved and they have approached this Court by way of filing the present revision petition.

5. I have heard learned counsel for the petitioners besides going through the record and I find that the revision petition is without any merit.

6. The objections raised by the JDs are nothing but repetition of the pleas taken by them during proceedings of the civil suit, which had been considered and rejected by the Court. Though the same pleas cannot be allowed to be taken for the second time in execution proceedings. Admittedly, an appeal filed by the defendants/JDs against the judgment and decree passed by the trial Court dated 16.3.2019 is pending before District Court at Gurugram. The defendants/JDs have not been able to get any order from the First Appellate Court staying the operation of judgment and decree passed by the trial Court. It was rightly observed that mere pendency of an appeal does not result into stay of the execution proceedings. If so aggrieved and so advised, the defendants/JDs could approach the First Appellate Court for staying operation of the judgment

and decree passed by the trial Court instead of filing objections under Section 47 CPC in such a manner, which were rightly rejected.

7. The order passed by the Executing Court is detailed and well reasoned without there being any element of arbitrariness. The same does come out to be suffering from any illegality or infirmity much less apparent on the face of it. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

8. The revision petition stands dismissed accordingly.

31.1.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No