

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 2247 of 2023(O&M)

Date of Order:24.11.2023

Kamla Devi and another

.Petitioners

Versus

Trilok and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Suman Jain, Advocate, for the petitioners.
Mr. Tanmoy Gupta, Advocate, for respondent no.1.**

ANIL KSHETARPAL, J

1. The petitioners herein filed the objection petition to resist the execution of a decree for possession by way of specific performance of the agreement to sell. Their objection petition has been dismissed by the Executing Court on 28.03.2023. In this revision petition, the correctness of the aforesaid order dismissing the objection petition is challenged.

2. The petitioners claim to be purchasers of the suit property vide sale deed dated 15.01.2014, from the Judgment Debtor.

3. In order to comprehend the issue involved in the present case, the relevant facts, in brief are required to be noticed.

4. Mr. Rohtash Kumar son of Sh. Kallu Ram was owner in possession of the suit property. On 14.06.2012, he entered into an agreement to sell with Mr.Trilok (decree holder). Thereafter, Mr. Rohtash Kumar mortgaged the property on 31.07.2013, in favour of both the petitioners. Sh. Trilok filed a suit for possession by way of specific performance of the agreement to sell on 15.01.2014, which was decreed on 14.03.2017. The first appeal filed by Mr. Rohtash Kumar (judgment debtor)

has been dismissed on 16.08.2019.

5. In execution of the decree for possession by way of specific performance, the sale deed of the suit property has been executed in favour of Sh. Trilok (decree holder). When the warrants of possession were issued, the petitioners, namely, Smt. Kamla Devi and Smt. Ritu Raj filed the objection petition, which has been dismissed by the Executing Court.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the petitioners contends that the third party objections are required to be decided after framing the issues and granting opportunity to the parties to lead evidence. He submits that the petitioners are the purchasers of the property through a registered sale deed and therefore their rights should be protected.

8. On the other hand the learned counsel representing the decree holder (Sh. Trilok) contends that the petitioners are not a third party because they are claiming the property through the judgment debtor i.e. Sh. Rohtash Kumar. He submits that the rights of the petitioners are subservient to the rights of the decree holders as the agreement to sell was entered on 14.06.2012, which has been executed prior to the passing of decree.

9. This court has considered the submissions of the learned counsel representing the parties.

10. The learned counsel representing the respondents is correct in contending that the petitioners are not a third party. They are claiming the property on the basis of a registered sale deed executed by Sh. Rohtash Kumar (judgment debtor). The deed of agreement as well as the registered sale deed executed in favour of the petitioners is much after 14.06.2012, the

date of agreement to sell. Therefore, the petitioners are not claiming any other independent right. Moreover, the decree for possession by way of specific performance of the agreement to sell has become final.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

13. All the pending miscellaneous applications, if any, are also disposed of.

November 24, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO