

CR-2707-2023

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

CR-2707-2023
Date of Decision: 04.05.2023

Beant Kaur

..... Petitioner

Versus

Sh. Kamal Kant Jain (now deceased) through his legal heirs and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

Mr. Rajeev Sharma, Advocate,
for the caveators/judgment debtors 1(A) and 1(C).

RAJBIR SEHRAWAT, J. (ORAL)

This is a revision petition filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 04.02.2023 (Annexure P-10) passed by the Civil Judge (Junior Division), Chandigarh, whereby application filed by the petitioner for deleting/striking off the name of judgment debtor 1(A), i.e. Valerie Jane Hara (respondent No.3 herein) in Execution Petition EXE-1422/2018 has been dismissed, as well as, the impugned order dated 06.02.2023 (Annexure P-14) passed by the Civil Judge (Junior Division), Chandigarh, whereby application dated 04.02.2023 (Annexure P-13) filed by the petitioner for correction of the order dated 19.01.2023 (Annexure P-12) has been dismissed.

A perusal of the record shows that respondent No.1 has got a decree for specific performance of an agreement to sell qua the suit property. That decree has been sought to be executed through the process of the Court. In the said decree, respondent No.3 has been impleaded by the decree holder; stating her to be the legal representative of the deceased defendant-Surinder Hara; as her third wife. Hence, it is clear that it is the decree holder, who has decided as to against whom he is to seek the execution of the decree or from whom he is to avoid resistance to the execution of the decree. Therefore, no exception can be taken to impleadment of respondent No.3 as party to the execution proceedings.

The case of the petitioner is that respondent No.3 is not legally wedded wife of the deceased-defendant (Surender Hara). However, this issue cannot be got decided by way of moving an application for deletion of the name from the array of parties in the execution proceedings. The person who intends to decimate or deny the status of respondent No.3 as the legally wedded wife of the deceased defendant may have his/her remedies elsewhere, however, that issue is not germane to the execution of the decree as such.

Even qua the application moved by the petitioner for correction of the zimini order, it deserves notice that the Trial Court itself has clarified in the impugned order that the facts mentioned in the zimini order dated 19.01.2023 is regarding the Will as the factual contents and mere mentioning of the same does not mean that the Will is admitted by the

applicant/present petitioner. Since the Trial Court itself has clarified the said aspect, therefore, no interference is called for even on that aspect.

In view of the above, finding no fault in the impugned orders passed by the Court below, the present petition is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

04.05.2023
adhikari

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