

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

145

2023:PHHC:125965

**CR-3136-2022(O&M)
Date of decision: 25.09.2023**

TARSEM KAUR

..Petitioner

Versus

SUKHDIAL SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.P. Soi, Advocate
& Sahil Soi, Advocate
for the petitioner.

Ms. Jasneet Mehra, Advocate
for Ms. Rishma Verma, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

CM-14851-CII-2023

- 1 Allowed as prayed for.
2. Agreement and Aksh Sharja (Annexure P-9 and P-10) are taken on record.
3. CM stands disposed of.

Main case

4. The petitioner herein is a third party objector in execution of a decree of possession by way of specific performance of the agreement to sell.
5. In order to comprehend the issue involved in the present case, some relevant facts, in brief, are required to be noticed.
6. Sh. Ram Prakash, Sh. Dev Raj, Sh. Des Raj and Smt. Resham Kaur, children of Sh. Sada Ram were joint owners of property located in village Dhandori, District Jalandhar. On 09.08.2012, Sh. Des Raj entered

into an agreement to sell with respect to the plot measuring 1 kanal

comprised in Rectangle No.17, Khasra No.2 (7-12) and Khasra No.9/1/(3-3), the exact location of the plot was identified by description of the property on all four directions, which reads as under:-

<i>East</i>	:	<i>Rasta</i>
<i>West</i>	:	<i>Dev Raj</i>
<i>North</i>	:	<i>Mettled Road</i>
<i>South</i>	:	<i>Daya Singh</i>

7. Since, Sh. Des Raj did not honor his part of the agreement, Sh. Sukhdial Singh (decree holder) filed a suit for possession by way of specific performance of the agreement to sell, which was decreed on 12.09.2016. Pursuant to the aforesaid decree, an execution petition was filed. Smt. Resham Kaur (sister of Sh. Des Raj) is stated to have sold 2 kanal and 2 marla land in favour of Smt. Tarsem Kaur (the petitioner) on 21.11.2014. Smt. Tarsem Kaur claims that she has been put in possession of a specific portion of the property pursuant to an agreement between the parties on 22.10.2014. It is submitted that the petitioner's possession cannot be disturbed in execution of the decree.

8. The Executing Court after examining the facts of the case has held that the petitioner has filed the objection petition at the behest of the judgment debtor only to create obstructions in the execution of the decree. The correctness of the aforesaid order has been challenged in this revision petition. The learned counsel representing the petitioner contends that the petitioner is a purchaser of a specific plot vide registered sale deed dated 21.11.2014 and the decree passed against Sh. Des Raj is not executable as the property at that point of time was joint and the plaintiff has referred to the land comprised in Rectangle No.17, Khasra No.2 (7-12) and Khasra

No.9/1 (3-3), which comes to 10 kanal and 15 marlas. He further submits that the petitioners possession cannot be disturbed in execution of the decree.

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

10. It is evident that the decree holder has filed a suit for possession by way of specific performance with respect to a plot identified by the description of the property on all the four directions.

11. Thus, the suit for possession has been decreed with respect to the aforesaid plot. It is also evident that the agreement to sell was executed by Sh. Des Raj in favour of the decree holder Sh. Sukhdial Singh on 09.08.2012. Hence, any *inter se* family agreement between the brothers and sister would not result in defeating the rights of the decree holder. There is no challenge to the correctness of decree passed in favour of decree holder. In such circumstances, the Executing Court is required to implement the same as per the decree passed, which is with respect to a specific plot. Hence, there is no substance in the arguments of the learned counsel representing the petitioner that the land measuring 1 kanal out of 10 kanal and 15 marlas is not identified.

12. Moreover, the alleged family settlement and the sale deed in favour of the petitioner is after the agreement to sell was entered into. Hence, the rights of the petitioner shall be subservient to the decree holder.

13. Consequently, finding no merit, the revision petition is dismissed.

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

September 25th, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*