

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

147+148

2023:PHHC:125382

**1. ESA-47-2023(O&M)
Date of decision: 22.09.2023**

ANJANA DEVI

..Appellant

Versus

BALBIR SINGH AND OTHERS

..Respondents

2. ESA-49-2023(O&M)

ANJANA DEVI

..Appellant

Versus

BALBIR SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. These two connected execution second appeals have come up for hearing.
2. The learned counsel representing the appellant admits that a common issue arises for consideration and therefore, both the appeals can be disposed of by a common order.
3. In two different suits filed against Sh. Radhey Shyam, two separate decrees for recovery of the amount were passed. The aforesaid decrees became final. In the execution petition, the property of the judgment debtor (Sh. Radhey Shyam) was sold by the Court auction. The appellant filed two objection petitions claiming to be the owner of the property vide registered sale deed dated 21.01.2011. Both the Courts on the appraisal of the evidence have found that previously also, this property of Sh. Radhey Shyam was attached on 23.11.2010 in a civil suit filed by Sh. Multan Singh

against Sh. Radhey Shyam. Thereafter, the property was once again attached in the suit filed by Sh. Balbir Singh (decree holder) vide order dated 08.03.2013. It has also come on record that previously Sh. Radhey Shyam, Smt. Maya and Smt. Manju mortgaged their share of the property with the bank against loan of Rs.2,70,000/-. Moreover, both the Courts have found that the appellant (third party objector) was in knowledge of pendency of the suit for recovery of the amount. In fact, the appellant appeared as OW-4. She stated that the entire transaction which led to execution of the sale deed was carried out by her husband Sh. Sampat Singh. Sh. Sampat Singh has appeared as OW-3 and admitted that he is acquainted with the judgment debtor as well as decree holder as all of them are residing in the same village. He even admits that he knows sh. Multan Singh (the plaintiff in the previous suit).

4. Neither OW-3 nor OW-4 have stated that they verified or made reasonable inquiries from the revenue authorities about encumbrance/charge of the property, if any. Thus, both the Courts have held that the sale in favour of the plaintiff during the period of attachment is not saved on the plea of bonafide purchaser.

5. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

6. The learned counsel representing the appellant submits that the appellant's existing right has been taken away as both the suits were filed in the year 2013.

7. As already noticed, the evidence brought on record clearly shows that the property, which is the subject matter of Court auction was

attached on 23.11.2010. It is not the case of the appellant that the aforesaid attachment ever came to an end. Subsequently, in the year 2013, the property was once again attached.

8. Hence, there is no substance in the argument of the learned counsel representing the appellant.

9. Hence, dismissed, accordingly.

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

September 22nd, 2023

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(ANIL KSHETARPAL)
JUDGE

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