

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

**CR-5993-2023 (O&M)
Date of Decision : 09.10.2023**

Gian Devi

..... Petitioner

Versus

Sanjay Dhankar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Ramesh Hooda, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

CM-18783-CIL-2023

The application for exempting the applicant-petitioner from filing the certified & typed copies of Annexures P-1 to P-9 is allowed as prayed for subject to all just exceptions.

CR-5993-2023

1. The present revision petition preferred under Article 227 of the Constitution of India assails the order dated 23.08.2023 (Annexure P-9), passed by the Addl. Civil Judge (Senior Division), Kharkhoda, District Sonapat vide which the third party objections filed by the petitioner were dismissed.

2. A suit for permanent injunction (Annexure P-1) was filed by respondent No.1 Sanjay Dhankar against respondent No.2 Smt. Savitri restraining her from alienating land measuring 5 kanal 10 marlas (fully

described in the plaint), situated in Village Kharkhoda, District Sonapat.

2(i) The case of respondent No.1-plaintiff was that an agreement to sell dated 04.04.2013 had been executed by respondent No.2. A sum of Rs.20,00,000/- was stated to have been paid as earnest money and the sale deed was to be executed upto 21.10.2013. Since the sale deed was not executed, inquiries were made by respondent No.1. It was found that a part of the suit land had already been sold to respondent No.3 Smt. Resham on 11.07.2013. The plaint was amended and respondent No.3 was impleaded as defendant No.2.

2(iii) The suit was resisted by the respondents-defendants by way of written statements (Annexures P-4 and P-5 respectively). The suit was decreed vide judgment and decree dated 26.09.2018 (Annexure P-6).

3. In the execution proceedings, the present petitioner filed an objection petition (Annexure P-7) stating that she had purchased the land measuring 1 kanal 14 marlas vide registered sale deed dated 10.07.2014, from Smt. Resham-respondent No.3.

3(i) The objections were resisted by way of reply (Annexure P-8). Vide impugned order dated 23.08.2023 (Annexure P-9), passed by the Executing Court, the objections were dismissed leading to the filing of the present revision petition.

4. I have heard learned counsel for the petitioner and have perused the paper book.

5. Learned counsel for the petitioner has submitted that the Executing Court erred in dismissing the objection petition filed by the petitioner. It has been contended that respondent No.3 Smt. Resham had

stated in the written statement that she had further sold the land to the present petitioner and under the circumstances, the trial Court should have impleaded the present petitioner as a party. It has been submitted that the petitioner did not get an opportunity to contest the case which has caused grave prejudice to her. Learned counsel submitted that the petitioner was a bonafide purchaser of land for consideration and that the same had been purchased much prior to the decision of the civil suit. Learned counsel has submitted that the Executing Court did not consider the matter from the correct perspective.

6. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit. The agreement to sell between respondent No.1 and respondent No.2 was executed on 04.04.2013. Since the sale deed could not be executed, the suit was preferred on 10.07.2013. The case of the petitioner is that she purchased the land measuring 1 kanal 14 marlas from respondent No.3 vide registered sale deed dated 10.07.2014 for total sale consideration of Rs.8,12,125/-. It, therefore, means that the land was purchased during the pendency of the suit and, therefore, the sale would be hit by the principle of *lis pendens* as laid down in Section 52 of the Transfer of Property Act, 1882. The petitioner would, therefore, step into the shoes of respondent No.3 and would acquire the same rights and liabilities. The argument that the trial Court should have impleaded the petitioner as a party is devoid of merit. It is settled law that subsequent purchasers are not required to be impleaded as parties. It is well known that such sales are effected with a view to defeat the rights of the plaintiff in a civil suit. Infact, there was a sale after the decision of the trial

Court also. Such subsequent purchasers keep on observing the proceedings with the motive of delaying the executing proceedings. The collusion between the respondents is, therefore, writ large. It is also well settled that in case of execution of a sale deed after the filing of the suit, the subsequent purchasers cannot claim the benefit of Section 19(b) of the Specific Relief Act, 1963.

7. Another thing which needs to be noticed is that the execution petition was filed in December, 2018 and the objections were filed in July, 2023 which again shows the intent.

8. The Executing Court examined the matter in detail and rightly dismissed the objections filed by the peittioner. I do not find any illegality or jurisdictional error in the impugned order, warranting interference.

In view of the aforementioned facts and circumstance, this Court does not find any merit in the present petition and the same is hereby dismissed.

(VIKRAM AGGARWAL)
JUDGE

09.10.2023
mamta

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