

CR-5704 of 2023

2023:PHHC:158421

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

CR-5704 of 2023

Date of decision: 11.12.2023

Jeeto

.....Petitioner

Versus

Bikkar Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. C.S. Singhal, Advocate,
for the petitioner.

NAMIT KUMAR, J.

1. This revision petition has been filed under Article 227 of the Constitution of India for setting aside impugned order dated 27.07.2023 (Annexure P-3) passed by the Court of learned Civil Judge (Junior Division), Jalandhar, whereby objections filed by the petitioner/judgment-debtor under Section 28 read with Section 20 of the Specific Relief Act in execution application filed by the respondent/decreed-holder, have been dismissed.

2. Brief facts of the case are that respondent-plaintiff filed a suit for possession by way of specific performance of agreement to sell dated 24.06.2013 regarding land measuring 2 kanals 11 marlas situated within the revenue estate of village Bullowal, Tehsil and District Jalandhar bearing khata No.249/279, comprising khasra No.43//10/1, hadbast No.354 as entered in the jamabandi for the year 2007-2008

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consisting of submersible motor and shed etc. and in the alternative for decree of recovery of Rs.10,00,000/- and also for permanent injunction restraining the defendant, her agents, attorneys, associates from further alienating, mortgaging, leasing and exchanging the suit property or changing the nature of the suit property except in due course of law. The said suit was decreed by the Court of learned Civil Judge (Junior Division), Jalandhar, vide judgment and decree dated 18.09.2018. Respondent/decreed-holder filed execution application for execution of the aforesaid judgment and decree wherein petitioner/judgment-debtor filed objections under Section 28 read with Section 20 of the Specific Relief Act for rescission of the contract on the basis of which decree dated 18.09.2018 had been passed. The said objections filed by the petitioner have been dismissed by the Executing Court vide impugned order dated 27.07.2023. Hence, this revision petition.

3. Learned counsel for the petitioner contended that executing Court failed to appreciate that trial Court made no mention of payment of the balance sale consideration, however, respondent/decreed holder was bound to deposit the balance sale consideration within a reasonable time after passing of the decree, but he had failed to do so, therefore, in terms of Section 28 of the Specific Relief Act, the agreement on the basis of which the decree had been passed is liable to be rescinded.

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

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5. It is well-settled that executing Court cannot go beyond the decree. The petitioner/judgment-debtor could have filed the objections in appeal before the appellate Court. However, the appeal filed by the petitioner was dismissed as withdrawn. Thus, the decree has become final.

6. Hon'ble Supreme Court in ***Meenakshi Saxena v. ECGC Ltd., (2018) 7 SCC 479*** has held as under: -

“The whole purpose of execution proceedings is to enforce the verdict of the court. Executing court while executing the decree is only concerned with the execution part of it but nothing else. The court has to take the judgment in its face value. It is settled law that executing court cannot go beyond the decree. But the difficulty arises when there is ambiguity in the decree with regard to the material aspects. Then it becomes the bounden duty of the court to interpret the decree in the process of giving a true effect to the decree. At that juncture the executing court has to be very cautious in supplementing its interpretation and conscious of the fact that it cannot draw a new decree. The executing court shall strike a fine balance between the two while exercising this jurisdiction in the process of giving effect to the decree.”

7. In view of the above, it appears that the present objections were filed by the petitioner only to delay the execution proceedings. The impugned order passed by the Executing Court is well-reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances

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of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

8. Finding no merit in the revision petition, the same stands dismissed.

11.12.2023
R.S.

(NAMIT KUMAR)
JUDGE

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