

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.116

Case No.: C.R.No.6579 of 2023 (O&M)

Date of Decision : November 08, 2023

Rishi Raj Chauhan @
Rishi Raj Pal Singh Chauhan Petitioner
vs.
Arun Sharma and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. R. K. Choudhary, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this petition is to the order dated 12.10.2023 (Annexure P-16), whereby the objections filed by the petitioner in execution proceedings have been dismissed by the Executing Court.

2. The brief facts, as culled out from the petition, are that respondent no.1/plaintiff filed a suit for permanent injunction against the petitioner and proforma respondent no.2, restraining them i.e. the defendants from alienating the suit property which was the subject matter of agreement dated 20.11.2009, agreement dated 07.12.2009 and supplementary agreement dated 15.02.2010. The parties entered into the compromise and as per the compromise (Ex.C1), the suit was disposed of as compromised. The compromise (Ex.C1) was made part of the file, vide order dated 24.09.2010 (Annexure P-1). At the time of disposal of suit, formal decree was not drawn. So, on application moved by the decree-holder for

preparation of compromise decree, decree dated 08.02.2013 (Annexure P-3) was drawn. Thereafter, decree-holder filed execution petition. The petitioner filed objections dated 03.10.2023 (Annexure P-14), which have been dismissed vide impugned order dated 12.10.2023 (Annexure P-16).

3. Learned counsel for the petitioner has argued that the terms and conditions of the compromise have not been fulfilled. Decree-holder was required to clear the outstanding dues of LIC Housing Finance Ltd., with which the house in question was lying mortgaged. It has also been submitted that petitioner is in custody on the false allegation of murder of decree-holder and the present execution petition was filed by respondent no.1 as legal heir of original decree-holder Arun Sharma. The earlier execution petition was dismissed for want of prosecution. It has further been submitted that deceased Arun Sharma was not having any child and the said fact has been admitted by his sister Shashi Kiran Sharma, who stepped into the witness-box as PW-1.

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

5. The petitioner has fairly admitted that sale deed in pursuance of the decree has already been executed and registered. He has also placed on the file a copy of the order dated 06.11.2023, which is taken on record. A perusal of this order shows that an amount of Rs.45,00,000/- (Rupees Forty Five Lakhs) is lying deposited in the account of the Court, under Head-8443, vide challan dated 14.11.2011, RD No.1042 dated 15.11.2011 in the office of District Treasury Officer, which is to be paid to the LIC Housing Finance Ltd.

6. There is no bar for filing the second execution petition if the earlier one has been dismissed in default and has not been decided on merits. The learned Court below has also relied on a judgment passed by this Court in the case of Ready Wax Factory vs. Lakhvir Singh reported as 2015(8) RCR (Civil) 123 (P&H).
7. The question whether respondent no.1-Gauri Sharma is the legal representative of original decree-holder Arun Sharma, has already been decided by this Court in CR-2727-2023(O&M), decided on 03.05.2023.
8. In view of the above discussion, I do not find any merit in the present revision petition, which is accordingly dismissed in limine.
9. Pending applications, if any, shall stand disposed of along with this judgment.

November 08, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.