

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

ESA-9-2022 (O&M)
Date of decision: 22.07.2024

GOPAL DASS

..Appellant

Versus

DEVENDER @ DABBAL AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

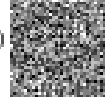
Present: Mr. Mukesh Mittal, Advocate
for the appellant.

Mr. Dhirinder Chopra, Advocate
for respondent No.8(a) to 8(d).

ANIL KSHETARPAL, J(Oral)

1. The decree holder assails the correctness of the orders passed by the Executing Court as well as the First Appellate Court while allowing the objection petition filed by Smt. Shikha, Sh. Naveen Kumar and Sh. Duli Chand.

2. In substance, the decree holder filed a suit for possession by way of ejectment of his tenant, whose tenancy was terminated. In the plaint, the plaintiff himself asserted that Sh. Ghanshyam Dass has sold the suit property in favour of Sh. Rajesh Kumar by virtue of the sale deed dated 06.05.1998. The plaintiff filed the suit on 27.02.1999. The suit was decreed. In execution petition, the respondents were sought to be dispossessed. Hence, te filed the objection, which has been allowed.



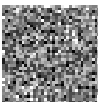
3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the appellant submits that in a separate litigation, it has been held that Sh. Ghanshyam Dass is not the owner of the property. Hence, any transfer of title by Sh. Ghanshyam Dass would not confer any right upon the respondents. He submits that the sale deed in favour of the objector is during the pendency of the previous suit, hence, governed by rule of *lis pendens*.

5. Per contra, the learned counsel representing the respondent No.8(a) to 8(d) submits that while filing the suit on 27.02.1999, the appellant has asserted that Sh. Ghanshyam Dass has sold the property to Sh. Rajesh Kumar on 06.05.1998. The plaintiff did not seek cancellation/annulment or declaration to the effect that sale deed dated 06.05.1998 is not binding. He submits that the sale in favour of the respondents will related back to 06.05.1998, when their predecessor had purchased the property. In fact, the property has been repeatedly transferred from the year 1998.

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

7. In this case, the respondents are neither the judgment debtor nor representative in interest of the judgment debtor. They are in possession pursuant to a registered sale deed executed in their favour. The history of sale deeds at various stages traced back to 06.05.1998, however, the plaintiff while filing the suit on 27.02.1999, did not seek its annulment or declaration that the same shall not be binding upon him. The judgment passed by the Civil Court is in *personam* and not in *rem*. The appellant has filed the civil suit against his former tenant. Hence, the Courts have correctly held that it



would not be appropriate to implement the decree against the respondents, who claim the property by virtue of a registered sale deed.

- 8. Hence, no ground to interfere is made out.
- 9. Dismissed accordingly.
- 10. All the pending miscellaneous applications, if any, are also disposed of.

July 22nd, 2024
Ay

(ANIL KSHETARPAL)
JUDGE

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