

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

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**CR-246-2024 (O&M)
Date of decision:16.01.2024**

Deepika Sharma

... Petitioner

Vs.

Paramjit Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Abhimanyu Batish, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the petitioner/defendant/objector against the order dated 07.12.2023 (Annexure P-8) passed by the Additional District Judge, Ludhiana as well order dated 25.07.2022 passed by the Civil Judge (Jr. Division), Samrla, vide which objection petition filed by the petitioner/objector was dismissed.

2. Plaintiff/respondent – Paramjit Singh filed a suit for possession by way of specific performance of the agreement to sell dated 14.10.2004 against petitioner/ defendant – Deepika Sharma which was dismissed by the Court of Additional Civil Judge, Samrara vide judgment and decree dated 11.03.2011. Aggrieved of the said judgment and decree, the petitioner filed an appeal before the First Appellate Court which was dismissed by District Judge, Ludhiana vide judgment and decree dated 26.03.2013. Thereafter, petitioner approached this Court and filed an appeal being RSA-2370-2013 which was dismissed vide order dated 12.10.2015 by this Court. Thereafter, respondent/plaintiff filed execution proceedings before the Court at Samrara.

In the said execution proceedings, petitioner/defendant filed objection petition CIS No.EXE/19/2014 which was dismissed by the Civil Judge, Jr. Division, Samrala vide order dated 25.07.2022. Then appeal was filed against the order dated 25.07.2022 of the Executing Court before the lower Appellate Court i.e. CMA No.176/2022. During the pendency of the said appeal, petitioner filed a revision petition being CR-4930-2023 titled as Deepika Sharma Vs. Paramjit Singh before this Court which was disposed of by this Court with the directions to the Appellate Court, Ludhiana dealing with the appeal filed by the petitioner to decide the same expeditiously and preferably within three months in accordance with law. The First Appellate Court, Ludhiana dismissed the said appeal vide judgment dated 07.12.2023. So the petitioner knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the petitioner has contended that the impugned orders dated 25.07.2022 and 07.12.2023 are liable to be set aside as these are against law and facts on the file. The petitioner/J.D. at the time of adducing her evidence, produced Ex.D2 the site plan of the shops owned and possessed by her before the trial Court. The previous owner of the property was Subhash Kumar and he sold the suit property to Tejinder Pal Singh on 04.11.1997. Site plan of the property was also attached along with the sale deed depicting measurements and boundaries of the entire property. Thereafter said Tejinder Pal Singh executed two different sale deeds on 04.08.2003 and 25.08.2003 in favour the petitioner/J.D. by mentioning different measurements as well as separate boundaries. The correct measurements and boundaries of the property in question have not been given in sale deed

dated 18.12.2019 as well as site plan dated 02.12.2019. So the said sale deed is liable to be cancelled and the execution application is also liable to be dismissed. He has further contended that the shop involved in the execution proceedings is not the property that was sold to the decree holder.

4. I have heard learned counsel for the petitioner at length and perused the pleadings on record.

5. Perusal of the order dated 25.07.2022 passed by the Executing Court vide which objections on behalf of the petitioner/J.D. were dismissed reveals that admittedly vide judgment and decree dated 11.03.2011 suit for possession by way of specific performance of agreement to sell dated 14.10.2004 filed by the decree holder was decreed and the appeal preferred against said judgment and decree dated 11.03.2011 was also dismissed by the First Appellate Court vide judgment and decree dated 26.03.2013. It has been specifically mentioned in aforesaid order that all the pleas taken by the J.D/objector in the execution application had already been a matter of appraisal, while deciding the main suit. It is well settled proposition of law that the Executing Court cannot go behind the decree and it has to enforce the decree as it is. Moreover, as per directions of the Court, draft sale deed was filed by the decree holder and thereafter the Reader of the Court made report regarding correctness of said draft sale deed dated 24.04.2019 as per the decree sheet. Thereafter Naib Nazir of the Court was appointed as Local Commissioner for execution of the sale deed and the sale deed was executed on 18.12.2019 in compliance of the order passed by the Court. So only under these circumstances, the objection petition moved by the J.D./objector was dismissed. The First Appellate Court vide the impugned order dated

07.12.2023 also upheld the order dated 25.07.2022 of Executing Court by observing that the Executing Court cannot go behind the decree and vide order dated 15.09.2023 the Executing Court rightly directed the bailiff to get delivered the possession of the shop in question to the decree holder strictly in accordance with the judgment and decree, at the time of delivery of possession.

6. In the light of the above, the impugned order is well reasoned order and does not suffer from any illegality or perversity and not calls for interference by way of exercising the revisional jurisdiction.

7. Dismissed.

(SUKHVINDER KAUR)
JUDGE

16.01.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |