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

CR-4305-2018(O&M)
Date of decision :08.04.2024

Janak Dulari and another **...Petitioners**

Vs.

Jeet Singh @ Ajit Singh through Lrs. **...Respondent**

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harish Goyal, Advocate
for the petitioners.

Mr. Varun Jain, Advocate and
Mr. Kanish Jindal, Advocate
for the respondents.

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ANIL KSHETARPAL, J. (Oral)

1. This revision petition has been filed by the holders of decree dated 11.02.2017 in a suit for specific performance of an unregistered sale deed dated 17.12.2009. They challenged the correctness of order dated 02.05.2018, which read as under:-

> *"From the pleadings of the parties, following issues are framed:*
>
> 1. *Whether the DH has got the present decree on false facts? OPO.*
> 2. *Whether the DH has not come to the court with clean hands?OPO*
> 3. *Whether the objections are not maintainable?OPNO*
> 4. *Relief.*

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No other issue arises or pressed for. To come up on 24.07.2018 for evidence of the objector on filing PF, DM and list of witnesses within two days."

2. In order to comprehend the issues involved in the present case, relevant facts, in brief, are required to be noticed.

3. The two plaintiffs, namely, Smt. Janak Dulari and Smt. Rachita Jain filed a suit for specific performance of the unregistered sale deed executed by Sh. Jeet Singh @ Ajit Singh son of Bhag Singh with a consequential relief of permanent injunction. In the first round, the suit was decreed, however, in appeal the matter was remitted back to the trial Court. On 11.2.2017, Sh. Jeet Singh @ Ajit Singh recorded the following statement:-

"*Stated that I do not want to give any evidence in the present case. I have compromised the matter with the plaintiff. I am bound to execute the sale deed in favour of the plaintiff, as per compromise. If case of the plaintiff is decreed, then I have no objection in the same."*

4. Sh. Mohinder Kumar Jain husband of Smt. Janak Dulari accepted the statement of defendant that he has received the costs from the defendant. Ultimately, the suit was decreed in terms of statement made by Sh. Jeet Singh @ Ajit Singh. After passing of the decree, Sh. Jeet Singh @ Ajit Singh died. The decree holders filed an execution petition in which, the respondent, namely, Smt. Rani Kaur wife of Jeet Singh @ Ajit Singh filed the reply submitting that Sh. Jeet Singh @ Ajit Singh never suffered such statement. As already noticed, the Executing Court has proceeded to frame the issues, which have already been reproduced.

5. Heard the learned counsel representing the parties at length and

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with their able assistance perused the paper-book.

6. Learned counsel representing the petitioner submits that the issues are required to be framed in the execution petition, only if there is a serious contest between the decree-holder and the judgment debtor on a particular point in issue. He submits that the issues settled by the Executing Court are not arising between the parties.

7. *Per contra*, learned counsel for the respondent submits that Sh. Mohinder Kumar Jain has accepted the statement of the defendant, although, he was not party. He further submits that Sh.Jeet Singh @ Ajit Singh has never appeared in the court and someone else impersonated as Jeet Singh @ Ajit Singh to give statement in the court on 11.02.2017.

8. As per Order 14 Rule 1 of the Code of Civil Procedure, 1908, the court is permitted to settle points in issue, which require adjudication from the Court. This provision is applicable not only to the suits but also to the execution petitions. However, before settling the points in issue and calling upon the parties to lead evidence, the court is required to apply its mind to identify the issues, which fall within the scope of execution petition. In each and every case, it is not necessary for the Court to frame issues and called upon the parties to lead evidence. From what has been contended by the learned counsel representing the respondent, the only point which needs consideration is as to whether the plaintiff impersonated Sh. Jeet Singh @ Ajit Singh or not. However, the Executing Court has not identified the issue on that aspect of the matter. Moreover, before the court proceeds to identify the issues involved in the execution petition, a speaking order is required to be passed giving detail

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reasons to explain the necessity of passing such order. If the parties are called upon to lead evidence after settling the issues, the decision on executing petitions would take long time.

9. This Court is not observing that in no case issues can be framed. However, before settling the issues, the court is required to identify the real and necessary issues, which require adjudication from the Executing Court.

10. Keeping in view the aforesaid facts, the impugned order passed by the Executing Court is set aside with directions to pass fresh order in accordance with law.

11. The revision petition is allowed.

(ANIL KSHETARPAL)
JUDGE

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

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