

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CR-5362-2018
Date of decision: 16.01.2024

LEELA RAM
..Petitioner
Versus
RAMESH KUMAR (DECEASED) THROUGH LRS AND ORS.
..Respondents

2. CR-5363-2018

LEELA RAM
..Petitioner
Versus
RAMESH KUMAR (DECEASED) THROUGH LRS AND ANR.
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajan Bansal, Advocate
for the petitioner.

Mr. P.K.S. Phoolka, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. With the consent of the learned counsel representing the parties, these two connected revision petitions are being disposed of by a common order.
2. A decree for possession by way of specific performance of the agreement to sell has been passed in favour of the petitioner herein. In the decree, the land has been identified by the description of the property located in all the four directions, which reads as under:-

“East : Front 1¾ killas Badal Road;
West : Land of Mara Singh
North : Pacca Khal
South : Land of Inder Singh”

3. When the petitioner filed an execution petition, the sale deed was executed and registered in favour of the petitioner, however, before the possession could be delivered, two sets of objections were filed by the respondents namely Sh. Gurpreet Singh and Sh. Mehma Singh in one revision petition and Sh. Gurjant Singh in another revision petition. In both the objection petitions, it was claimed that the property is an undivided share of a joint khewat and therefore, the physical possession of the property cannot be delivered unless the suit land is partitioned. The Executing Court has allowed the objections and disposed of execution petition. The correctness of the aforesaid order has been challenged in these revision petitions.

4. The learned counsel representing the petitioner contends that Sh. Gurpreet Singh and Sh. Mehma Singh, the objectors in CR-5362-2018, sold the same property in favour of Sh. Ramesh Kumar (judgment debtor) and the possession of the specified portion of the land was delivered to Sh Ramesh Kumar, who in turn entered into an agreement to sell with the petitioner. He submits that once the respondents themselves had delivered possession of specific portion to Sh. Ramesh Kumar (judgment debtor), the Executing Court erred in refusing to deliver the physical possession to the petitioner.

5. On the other hand, the learned counsel representing the respondent submits that the petitioner has not produced the copy of the sale deed dated 30.06.2006, allegedly executed by Sh. Gurpreet Singh and Sh. Mehma Singh in favour of Sh. Ramesh Kumar. He submits that the petitioner cannot be permitted to make a new case in the revision petition.

6. The learned counsel representing the petitioner further submits that in the objection petition, the respondents have admitted that though, the property is joint, however, all the co-sharers are in possession of specific portion of the property by mutual consent and therefore, there is no reason to delay the delivery of possession to the petitioner.
7. This Court has considered the submissions of the learned counsel representing the parties.
8. It is evident that the copy of the sale deed dated 30.06.2006, was not produced before the Executing Court. This document is necessary for adjudication of the objection petitions.
9. Keeping in view the aforesaid facts, the two orders passed on 11.05.2018, are set aside. The Executing Court is requested to decide the objection petitions filed by Sh. Gurpreet Singh, Sh. Mehma Singh and Sh. Gurjant Singh afresh after permitting the decree holder to produce a copy of the aforesaid sale deed.
10. The parties through their learned counsel are directed to appear before the Executing Court on 09.02.2024.
11. Both the revision petitions are disposed of accordingly.
12. All the pending miscellaneous applications, if any, are also disposed of.

January 16th, 2024

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(ANIL KSHETARPAL)
JUDGE

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