

In the High Court of Punjab and Haryana, at Chandigarh

Execution Second Appeal No. 7 of 2024 (O&M)

Reserved On: 01.02.2024
Pronounced On: 05.02.2024

Jeet Singh alias Jit Singh

... Appellant(s)

Versus

Jagga Singh (Deceased) through his Legal Representatives and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Arihant Jain and Mr. Arun Jindal, Advocates
for the appellant(s).

Anil Kshetarpal, J.

1. This Execution Second Appeal has been filed by the third party objector to challenge the correctness of a detailed order passed by the Executing Court, which, in appeal, has been affirmed by the First Appellate Court.

2. A decree for specific performance of the agreement to sell was passed on 25.05.2013 in favour of Jagga Singh, who has now died and he is represented by his legal representatives.

3. The appellant claims to be in possession of the property. Both the Courts below have held that the objector has failed to produce any document to prove any right, title or interest in the property. The First Appellate Court has also held that the appellant surrendered possession vide document Ex.DH/F.

The correctness of the orders passed by both the Courts below

is challenged in this execution second appeal.

5. Heard the learned counsel representing the appellant and with his able assistance, perused the paper-book.

6. The learned counsel representing the appellant contends that as per the judgment dated 19.09.2016 in Civil Suit No. 172 dated 27.07.2012 titled as “Jeet Singh v. Randhir Singh and Others” the appellant has been held to be in possession. He further contends that FIR No. 117 dated 13.07.2013, under Section 420 and 406 of the Indian Penal Code, 1860, was registered against the appellant in which he was acquitted.

7. This Court has considered the submissions. On the request of the Court, the learned counsel representing the appellant has produced uncertified copy of Ex.DH/F. It is evident that the appellant, after receiving ₹30,000/-, surrendered the possession of the disputed property and undertook not to claim any right, title or interest in the same. A perusal of the judgment passed in the civil suit shows that in the aforesaid judgment, neither Jagga Singh nor the judgment debtor- Duni Singh are the parties. Hence, the aforesaid judgment for the grant of decree of permanent injunction is not binding in the present case. In the criminal case, the appellant was acquitted as the prosecution failed to lead evidence. However, that would not be sufficient to hold that the settlement (Ex.DH/F) was never executed. It is also evident that the judgment debtor Duni Singh has tried to help the appellant by executing an affidavit on 20.12.2012. In fact, Duni Singh has tried to defeat the rights of the decree holder by projecting that the appellant is in possession. However, the decree holder has proved the execution of the deed of settlement (Ex.DH/F) which proves that the

appellant, after receiving ₹30,000/- surrendered the possession.

8. Keeping in view the aforesaid facts and discussion, no ground is made out to interfere with the impugned judgments passed by both the Courts below. Hence, the present appeal is dismissed.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 05, 2024
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No