

2024:PHHC:056118
**132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1346-2023 (O&M)
Date of decision: 24.04.2024

Baldev Singh and another

...Petitioners

Versus

Kashmir Singh (now deceased) through his LRs and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Onkar Singh, Advocate for the petitioners
Mr.B.S.Jaswal, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. This Court has read the file in advance. The learned counsel representing the petitioners was confronted with the aforesaid situation, however, he insisted for arguing the case at length. He has taken almost half an hour to make his submissions.

2. It appears that the petitioners are possessed of un-tiring energy and money to abuse the process of court. The petitioners are the subsequent purchasers from the judgment debtors. The plaintiff filed a suit for possession by way of specific performance of the agreement to sell, which was decreed on 19.11.2010. This decree was upheld in the first appeal. The second appeal was dismissed by this Court on 23.04.2018. The Special Leave Petition before the Supreme Court filed by the judgment debtors was also dismissed. Subsequently, the petitioners filed objection petition in the execution petition, which was also dismissed. Again, the first appeal was dismissed. The petitioners

did not stop filing of various petitions before various Forums. They filed an execution second appeal, which was also dismissed on 06.03.2024.

3. Pursuant to the decree, the sale deed was executed in favour of the decree-holders. On 15.02.2023 the execution petition was disposed of with the following order:-

“Varinder Pal Singh son of Lt. Kashmir Singh resident of Vilalge Salowal Tehsil Mukerian Dist. Hoshiarpur with counsel Shh.L.S.Dadwal Advocate come present and got recorded his statement that he has got possession of the decretal property and after getting possession he has bounded the decretal property with pillars and hence decree has been fully satisfied and so he withdraw the present execution petition being fully satisfied.

In view of the separate statement so suffered by the plaintiff along with Sh.L.S.Dadwal, Advocate, present suit stands dismissed as withdrawn being fully satisfied.

File be consigned to Judicial Record Room, Dasuya, after due compliance.”

4. Just two days before the execution petition was disposed of, the petitioners, who were appellants in execution second appeal, filed this petition with the following prayer:-

“It is, therefore, respectfully prayed that the present petition may kindly be accepted and the direction be issued to respondent DH not to change the character of the land without getting it partitioned by metes and bounds as the land in dispute is a joint land with the petitioners who had also purchased land from Nishan Singh from the same Killa numbers and Khewat as such are co-sharers, in the interest of justice, equity & fair play.”

5. In substance, the petitioners submit that the suit property comprise of a joint khewat and therefore, the decree-holder cannot be delivered possession of the specific portion.

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

7. The petitioners have not filed any objections to this effect before the Executing Court. Previously, the petitioners filed objection petition, which was dismissed and the order was upheld by the First Appellate Court as well as by the High Court. The possession of the property has also been taken over by the decree-holder. Thus, these proceedings are totally abuse of the process of court.

8. Consequently, the petition is dismissed with costs of Rs.1,00,000/- which shall be deposited in the Post Graduate Institute of Medical Education and Research, Chandigarh, Poor Patients' Welfare Fund, within a period of one month, from today.

9. All the pending miscellaneous applications, if any, are also disposed of.

24.04.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE