

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

127

CR-2585-2024 (O&M)

Date of decision:30.04.2024

Dalwinder Singh

... Petitioner

Vs.

Ujjagar Singh (deceased) through his L.Rs.

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. J.S. Bhandohal, Advocate for the petitioner.

Mr. Sunny Singla, Advocate for

Mr. Abdul Aziz, Advocate for caveator/respondents No.1 & 2.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed for setting aside the order dated 06.03.2024 (Annexure P-4) passed by the Civil Judge (Jr. Division), Malerkotla, vide which the application filed by the petitioner/objector for staying the proceedings in the execution application has been dismissed.

2. The relevant facts for adjudication of the present revision petition are that the decree holder through his L.Rs. i.e. respondents No.1 to 3 filed an execution application to execute judgment and decree dated 23.02.2010 passed in Civil Suit No.294 dated 19.05.2006 for specific performance of agreement to sell dated 04.01.2006.

3. The revision petitioner/objector - Dalwinder Singh filed an application praying for stay of proceedings in the said execution application till decision of Civil Suit No.349 dated 10.06.2006 and Civil Suit No.352

dated 14.06.2006 in view of order dated 08.01.2024 passed by this Court in SAO Nos.16 and 17 of 2013. The Civil Judge (Jr. Division), Malerkotla dismissed the said application vide the impugned order dated 06.03.2024. Hence, the revision petitioner/objector has knocked the doors of this Court by way of filing of the present revision petition.

4. Learned counsel for the revision petitioner has contended that prior to agreement to sell dated 04.01.2006 which is subject matter of civil Suit No.294 dated 19.05.2006 in which judgment and decree dated 23.02.2010 had been passed, Charanjit Kaur and Bachittar Singh entered into two separate agreements to sell dated 05.05.2005 with the present revision petitioner/objector - Dalwinder Singh qua the same land. On the basis of said agreements to sell dated 05.05.2005, objector Dalwinder Singh filed Civil Suit No.349 dated 10.06.2006 titled as 'Dalwinder Singh Vs. Bachittar Singh' qua land measuring 8 bigha 7 biswas and Civil Suit No.352 of 14.06.2006 titled as 'Dalwinder Singh Vs. Charanjit Kaur' qua land measuring 5 bigha 5 biswa. Both these civil suits were decreed on 25.10.2011 by the Court of Additional Civil Judge (Sr. Division), Malerkotla. He has further contended that against the aforesaid judgments and decrees dated 25.10.2011, Bakhtaur Singh and Gurdeep Singh (L.Rs. of Ujjagar Singh) filed appeals bearing Appeal No.275 dated 26.11.2011 and Appeal No.78 dated 14.11.2011, which were allowed vide orders/judgments dated 19.02.2013 by the Appellate Court, Sangrur. Against the above said order/judgments dated 19.02.2013, objector Dalwinder Singh filed SAO Nos.16 and 17 of 2013 before this Court which were disposed of by this Court on 08.01.2024 vide which both the civil suits bearing CS No.349

dated 10.06.2006 and CS No.352 of 14.06.2006 were remanded for retrial which are now pending in the Court of Civil Judge (Jr. Division), Malerkotla. He has argued that in the above said suits Dalwinder Singh had filed application under Order 6 Rule 17 CPC seeking amendment of plaint challenging the judgment and decree dated 23.02.2010 passed in favour of Ujjagar Singh in CS No.294 of 19.05.2006 and for impleadment of Bakhtaur Singh and Gurdeep Singh as defendants. He has further argued that as such in view of order dated 08.01.2024 passed by this Court, the entitlement of decree holder is subject to the outcome of CS No.349 of 10.06.2006 and CS No.352 of 14.06.2006, where the question of 'Superior right among Dalwinder Singh (objector) and Bakhtaur Singh and Gurdeep Singh (legal heirs of Ujjagar Singh DH)' will be adjudicated. So, in case, the present execution is continued, then the proceedings of CS No.349 of 14.06.2006 and Civil Suit No.352 of 14.06.2006 will become infructuous.

5. I have heard learned counsel for the petitioner at length and have gone through the records.

6. The application for staying the proceedings of the instant execution has been filed till decision of CS No.349 dated 10.06.2006 and CS No.352 dated 14.06.2006 in view of the order dated 08.01.2024 passed by this Court. The judgment and decree dated 23.02.2010 under execution was passed in CS No.294 of 19.05.2006 for specific performance of agreement to sell dated 04.01.2006 alleged to be executed by Charanjit Kaur and Bachittar Singh in favour of Ujjagar Singh. This fact is not disputed that the aforesaid judgment and decree has not been challenged before any Court of law till date by the objector or any other person and as such, it has attained finality.

As per order dated 08.01.2004 passed by this Court, CS No.349 of 10.06.2006 and CS No.352 of 14.06.2006 have been remanded for retrial to find out the superior right amongst the purchasers, namely, Dalwinder Singh or Bakhtaur Singh and Gurdeep Singh. Even pursuant to order dated 08.01.2024 passed by this Court, there is no such direction regarding staying the proceedings in the present execution till adjudication of CS No.349 of 10.06.2006 and CS No.352 of 14.06.2006. The Executing Court had rightly held that order of retrial by this Court in the aforesaid civil suits will not lead to stay of proceedings in this case, especially when the judgment and decree dated 23.02.2010 has attained finality. It is a trite law that Executing Court cannot go behind the decree and it is required to execute the decree as it is.

7. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

8. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

30.04.2024

harjeet

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