



**106-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.ESA-20-2011 (O&M)

Avtar Singh and others

....Appellants

Versus

Sham Lal Bhardwaj

..Respondent

2.ESA-21-2011 (O&M)

Avtar Singh and others

....Appellants

Versus

Mayawati and others

..Respondent

Date of decision: 18.07.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Abhishek Sahu, Advocate for
Mr. B.S.Bhalla, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

1. With the consent of the learned counsel representing the appellants, two connected Execution Second Appeals shall stand disposed of by this common order.

2. The appellant is a decree-holder. He filed a suit for specific performance of the agreement to sell with respect to the land comprised in Rect.no.45 khasra no.57 and 22/2 against Mehtab Kaur, which was ex-parte decreed. In execution petition, the respondent claimed that Mehtab Kaur sold plot measuring 5668 sq. yards comprised in Rect.



no.54 khasra no.22/2 to the objector for Rs.4,000/-. In execution petition, the objector was sought to be dispossessed. Hence, he filed an objection petition. Upon appreciation of evidence, both the courts found that there is substance in the objection petition as the decree is with respect to the land comprised in Rect.No.45 khasra no.57 and 22/2 whereas the objector is in possession of the land comprised in Rect. no.54 khasra no.17 and 22/2. Thus, both the courts allowed the objection petition and declared that the proceedings to deliver the possession were mere paper transactions.

3. Heard the learned counsel representing the appellants at length and with his able assistance perused the paperbook.

4. Learned counsel representing the appellants submits that the objections were not maintainable because these could only be filed after the objector was dispossessed and the sale in favour of the objector was illegal, being hit by rule of lis pendens.

5. This Court has considered the submissions made by the learned counsel representing the appellants.

6. Objector filed an application for restoration and in the alternative, he claimed that in fact there was no delivery of possession. Local Commissioner was appointed and the parties were allowed to lead evidence. Subsequently, the court came to the conclusion that the objector continues to be in possession. For filing objection, it is not necessary that third party should be physically dispossessed from the suit land. Once his position is threatened, he has right to file the objection petition.



7. The second argument also lacks substance because the rule of lis pendens only makes the transfer of the suit property subservient to the result of the litigation. It does not prohibit transfer of the property. In any case, both the properties are different. The decree-holder has filed a suit for the land comprised in Rect. no.45 khasra no.57 and 22/2. He never filed any suit for the land comprised in Rect. no.54 khasra no.17 and 22/2.

8. Learned counsel representing the appellants did not make any other submission.

9. Keeping in view the aforesaid facts, no ground to interfere is made out.

10. Hence, dismissed.

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

18.07.2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No