

CR-3689-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3689-2022 (O&M)
Date of Decision: 16.01.2024

Jeet Singh

... Petitioner

V/s.

Malkait Singh

... Respondent

Present: Mr. G. S. Madaan, Advocate
for the petitioner.

Mr. Sushma Chopra, Senior Advocate with
Mr. Manjit Singh Chaudhary, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated
27.07.2022 passed in the Execution petition bearing No. 13 of 2018 dated
26.09.2022, titled as '*Jeet Singh vs. Malkiat Singh*'.

Facts, as culled out from the paperbook are that the respondent

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had filed a suit for recovery against the present petitioner, which was decreed vide judgment dated 25.10.2016. The appeal was filed, which was dismissed vide order dated 21.09.2017. RSA No. 2997-2018 was also filed but however, before filing of the said RSA, the execution petition was filed.

During the pendency of the execution petition, vide order dated 30.05.2022, warrant of sale was issued.

After passing of the aforesaid order, the CM bearing No. 4285-C-2022 was filed and therein an order was passed to the effect, which reads as hereunder:

“ In the meanwhile if the order dated 30.05.2022 passed by the lower Court is complied with, further confirmation of the sale shall not be made, till next date of hearing.”

Thereupon, the warrant of sale was not executed and subsequently, vide order dated 20.07.2022, the Executing Court had issued notice to Niab Tehsildar for initiation of contempt proceedings and directed him to make appearance on 27.07.2022. Again on 27.07.2022, warrant of sale was ordered to be issued and this order has been challenged by way of present petition.

Learned counsel for the respondents submits that since the rights qua the property had been protected in RSA, at this stage, they shall not pursue the execution petition and shall avail appropriate remedy for modification of the order ,if so required, in the aforesaid RSA.

In the given circumstances, when protection had already been

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granted vide order dated 04.07.2022 passed in the aforesaid RSA, the impugned order putting up of the property on sale ought not to have been passed in order dated 27.07.2022.

Accordingly the revision petition is accepted and the impugned order dated 27.07.2022 is hereby set aside. However, the respondent shall be at liberty to seek appropriate remedy of modification of interim relief granted in RSA.

16.01.2024

Seema

(ARCHANA PURI)
JUDGE

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