

In the High Court of Punjab and Haryana, at Chandigarh

Execution Second Appeal No. 42 of 2014 (O&M)

Date of Decision: 08.01.2024

Jangir Kaur and Another
... Appellant(s)

Versus

Parshotam Dass alias Parshotam Chand and Others
... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ashwarya Bajaj, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The objection petition filed by the respondents has been allowed by the Executing Court and the decree, passed in favour of the appellants, has been held to be non-executable against them.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The predecessor-in-interest of the appellants, namely Chand Singh was the owner in possession of the land measuring 16 kanals and 1 marla comprised in khasra No. 1179/2. He sold the plot measuring 16 marlas to Wazir Chand on 11.07.1974. Pursuant thereto, the khata of Wazir Chand was separated and he was handed over the possession of specific land in khasra No. 1179/2/1. Subsequently, in the year 1978, Wazir Chand had further sold the plot measuring 9 marlas to the objectors and their brother Amrit Lal by executing as many as three sale deeds. Amrit Lal, in turn, sold his share of the plot in favour of Purshotam Chand on 07.06.1982. Wazir

Chand sold the remaining part of the property to Usha Shukla, who, in turn, sold the property in favour of Saroj Rani. The appellants, being the legal heirs of Chand Singh, filed a suit for partition on 07.08.1993, without impleading the objectors as party respondents because the khata of the respondents was separated. In execution of the final decree dated 20.03.2004, the house of the objectors was sought to be demolished which compelled them to file an objection petition. Both the Courts below have allowed the objection petition on the following two counts:-

- i) The objectors were never impleaded as a party.
- ii) The objectors purchased the specified plot from the exclusive owner, namely Chand Singh.

4. Both the Courts below have also held that the appellants have already sold their share in the entire land.

5. The learned counsel representing the appellants contends that in the first round, the objection petition filed by the respondents was dismissed. However, the First Appellate Court remanded the case back to the trial Court for fresh decision with the direction to determine “whether a fresh construction has been raised or not?” He submits that this issue has not been decided.

5. Be that as it may. The judgment and the decree passed for partition of the property is a judgment in *personam*. If the appellants claim that the objectors became owners pursuant to the sale deeds executed in the year 1974, they were required to be impleaded as a party. Moreover, as already noticed, the appellants have already sold their entire portion which is not a subject matter of challenge before this Court.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order. Hence, the present appeal is dismissed.
7. The miscellaneous application(s) pending, if any, shall stand disposed of.

January 08, 2024
“DK”

(Anil Kshetarpal)
Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No