



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 06.08.2024

- I.

ESA-27-2018 (O&M)

Bachittar Singh

.....Appellate

Vs.

Satpal Singh and another

.... Respondents
- II.

ESA-29-2018 (O&M)

Bachittar Singh

..... Appellate

Vs.

Harpreet Singh and another

.... Respondents
- III.

ESA-30-2018 (O&M)

Bachittar Singh

.... Appellate

Vs.

Gurcharan Kaur and another

.... Respondents

CORAM: HON’BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Raman Mohinder, Advocate, for the appellant.

DEEPAK GUPTA, J.

Separate, but similar orders dated 02.12.2017 passed by the Court of Id. Additional District Judge, Sangrur have been assailed in these three appeals.

2. The facts relevant for disposal of these appeals are that decree for recovery of ₹2,45,000/- in *Civil Suit No.400 of 2006* titled as *Satpal Vs. Budh Singh* was passed on 17.07.2008. In 2nd suit bearing *Civil Suit No.390 of 2006* titled as *Harpreet Vs. Budh Singh*, decree for recovery of ₹2,50,000/- was passed on 30.10.2008. In the 3rd suit bearing *Civil Suit No.396 of 2006* titled as *Gurcharan Kaur Vs. Budh Singh*, decree for recovery of ₹3,20,000/- was passed on 01.10.2008. Thus, the decree holders in all the three cases were different, but Judgement Debtor was common i.e. Budh Singh.

3. Three separate executions were filed by the decree-holders of the

above three cases, in which the property of the common Judgment Debtor-Budh Singh was put to auction. The auction was conducted on 09.12.2010 and the three decree-holders, purchased different portions of the attached portion of the property of Judgment Debtor-Budh Singh.

4. In all the three executions, Bachittar Singh (*appellant herein*) filed objections under Order 21 Rule 58, 90 and 97 read with Section 151 CPC for setting aside the sale dated 09.12.2010. His contention was that on the basis of an agreement to sell dated 15.10.2003 and subsequent writing dated 14.10.2004 executed by Budh Singh (*judgment debtor in the three recovery suits*), his Civil Suit No.353 of 2005 titled *Bachittar Singh Vs. Budh Singh* for specific performance had been decreed on 27.11.2012. It was further pleaded that Judgment Debtor and the decree-holders/auction purchasers were colluding in order to defeat his rights.

5. The decree-holders in all the three executions opposed the objections. The trial Court dismissed objections in all the three executions, against which Bachittar Singh i.e. 3rd party objector filed three appeals. As noticed earlier that all the three appeals have been dismissed by way of three separate orders, all dated 02.12.2017 on similar grounds.

6. It has been found by the Courts below that Bachittar Singh did not file the objections himself nor appeared in the witness box and rather, he was represented through his General Power of Attorney holder-Gurpreet Singh. The Original General Power of Attorney was neither produced nor proved on record. Only the copy thereof was produced and the GPA Holder-Gurpreet Singh failed to prove the agreement to sell. It was further observed by the First Appellate Court that 3rd party objector (Bachittar Singh) and Judgement Debtor (Budh Singh) were colluding, as in an earlier litigation, both of them had engaged the same counsel. The most important aspect, which weighed in the mind of the First Appellate Court in dismissing the appeals, was that though the auction for sale took place on 09.12.2010, but the objections were filed on 25.03.2014 i.e. after more than three years despite the fact that objector-Bachittar Singh i.e. appellant herein as well as Judgment Debtor (Budh Singh) are cousins. Both of them are residing in the same street in the same village and so, it was not believable that the objector could not come to know of the sale, particularly when he claimed himself to be in possession. It was found that 3rd party Objector Bachittar Singh as well Judgment Debtor Budh

Singh were colluding.

8. The aforesaid orders dated 02.12.2017 of the first appellate court have been assailed before this Court.

9. However, Id. counsel for the appellant could not convince this Court by pointing out any flaw whatsoever in the impugned orders passed by the First Appellate Court, particularly the fact that objections were filed beyond the period of three years from the date of sale despite the fact that 3rd party objector-appellant was well as Judgment Debtor were residing in the same village in the same street and so, it could not be believed that the appellant could not come to know about the sale.

10. After hearing Id. counsel for the appellant and perusing the impugned orders passed by the First Appellate Court, this Court does not find any merit in any of these appeals. As such, all the appeals are hereby dismissed.

11. Pending application(s), if any, shall stands disposed of.

A photocopy of this order be placed on the file of other connected case.

06.08.2024

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Yes

Whether reportable?

No