

2024:PHHC:032604

**122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

ESA-61-2019 (O&M)
Date of decision: 06.03.2024

Baldev Singh and others

....Appellants

Versus

Kashmir Singh (deceased) through LRs and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Onkar Singh, Advocate for the appellants

Mr. G.S.Jaswal, Advocate for respondent no.1

ANIL KSHETARPAL, J (Oral)

1. This is execution second appeal filed by third party objector. His objection petition was dismissed by the Executing Court, which in appeal, has been affirmed by the First Appellate Court. The appellants are heirs of late Sh.Natha Singh. Sh.Natha Singh alongwith Sh.Baldev Singh and Sh.Joginder Singh purchased the suit land on 30.05.2006 i.e during the pendency of the suit for possession of the property by way of specific performance of the agreement to sell. During the pendency of the suit, the petitioners filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 for their impleadment in the suit, which was dismissed. It is evident that the petitioners are claiming the property on basis of the sale deed, which was executed during the pendency of the previous suit filed by the decree-holder. Hence, the sale in favour of the appellants is subservient to the decision of the suit.

2. Learned counsel representing the appellants submits that the agreement to sell in favour of the decree-holder was executed on 01.12.2004 and the sale deed was to be executed on 30.05.2005. He submits that the suit for specific performance was filed by the decree-holder only on 12.01.2006.

3. This Court has considered the submissions made by the learned counsel representing the parties.

4. It has been correctly found by the trial court, which in first and second appeal has been affirmed, that the decree-holders were always ready and willing to perform their part of the contract. The decree-holders sent a notice to the judgment debtor on 12.12.2005 and thereafter, filed the suit on 12.01.2006. Admittedly, the suit was filed after a period of 6 months from the date the sale deed was executed.

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

6. Hence, dismissed.

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

06.03.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE