

2024:PHHC:061125

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

CR-6803-2023 (O&M)

Date of decision: 02.05.2024

Karaj Singh

....Petitioner

Versus

Hari Singh (deceased) through LRs

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Avinit Avasthi, Advocate for the petitioner
Mr. Rajesh Punj, Advocate for respondent no.1, 3 and 4

ANIL KSHETARPAL, J (Oral)

1. The petitioner challenges the correctness of the Executing Court's order directing him to submit a draft sale deed while specifically reciting about the fact that the property is under charge.

2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

3. Late Sh. Hari Singh was owner of the property. He executed an agreement to sell in favour of the petitioner Sh. Karaj Singh on 14.05.2016. Subsequently, Sh. Karaj Singh filed a suit for the specific performance of the agreement to sell, which was decreed on 24.07.2019.

In the execution petition, a Local Commissioner was appointed to execute the sale deed. It was reported that in another suit, the suit property is attached under the orders of the Civil Court to the extent of

Rs.4,50,000/-. Moreover, the property was also mortgaged with the

State Bank of India on account of two different charges of Rs.5,00,000/- and Rs.2,50,000/-. Thus, the Executing Court has directed the petitioner to include these facts in the draft sale deed.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel representing the petitioner submits that the petitioner has been directed to pay the amount of charge before the sale deed could be executed.

6. This Court has carefully read the impugned order. The court has only directed the petitioner to specifically recite regarding all encumbrances on the suit property while submitting the draft sale deed. There is no direction to pay the amount encumbered upon the property.

7. Learned counsel representing the petitioner further submits that the Executing Court has travelled beyond the decree as the decree was passed without any encumbrance on the property.

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

9. The encumbrance has come to the notice of the Executing Court after the decree was passed. The encumbrance is on the suit property. Hence, the same is required to be specified in the draft sale deed.

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

11. Hence, dismissed.

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

02.05.2024
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(ANIL KSHETARPAL)
JUDGE

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