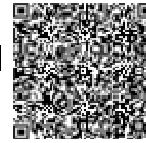


2024:PHHC:101191



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

**121**

**CR-120-2023 (O&M)**

**Date of decision: 07.08.2024**

**Darshan Singh and another**

**...Petitioners**

**Versus**

**Kuldeep Singh and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE VIKAS SURI**

**Present: Mr. Shikhar Sarin, Advocate for the petitioners.**

**\*\*\*\*\***

**VIKAS SURI, J.(Oral)**

1. The judgment debtors/objectors have preferred this revision petition under Article 227 of the Constitution of India raising challenge to the order dated 26.09.2022 whereby the objections filed by them in execution proceedings were dismissed.

2. Briefly stated, the suit filed by the plaintiff-decree holders for possession by way of specific performance of agreement to sell dated 08.05.1996 for sale of land measuring 34K-6M was decreed vide judgment and decree dated 07.03.2007. The appeal filed challenging the same was dismissed vide judgment and decree dated 15.11.2011. The two regular second appeals preferred thereagainst met the same fate vide order dated 26.09.2018 (Annexure P-2). The petitioners carried the matter to the Apex Court by way of SLP(C)-16383-2019 which too was dismissed vide order dated 15.10.2019. In the objections filed before the

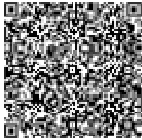


executing Court, a categoric objection was raised that the curative petition in the matter was still pending and execution proceedings be stayed till the final decision of the said curative petition. After noticing the rival contentions of the parties, executing Court dismissed the objections. The operative part of the said order read as thus:-

“7. It is to be seen that the objections taken by the JDs through the objections are that they are in actual possession of the suit property and the decree holders have never been put into the possession of the suit property by the JD No.1 while executing the agreement to sell in his favour. They contended that they are in settled possession of the suit property from 30.10.1996 and therefore, their possession over the suit property has ripen into adverse possession in the year 2009 as the 12 years have been completed in the year 2009. Therefore, it is contended that the present execution has become infructuous. Learned counsel for the JDs has argued that a curative petition has also been filed by the JDs against the judgment and decree dated 7.3.2007 and as such execution proceedings be stayed.

8. On the other hand, the learned counsel for the decree holders has refuted these contentions of the JDs and has argued that the plea set up in the objections were already dealt by the trial Court in its judgment and decree dated 7.3.2007 by framing separate issue as to the claim of JDs which was also decided against the JDs. He argued that moreover no stay order has been placed on record by the JDs for staying the present execution application.

9. I find force in the submissions of the learned counsel of the decree holders. It is stated that the objections set up by the JDs vide the instant



application were a matter of evidence before the trial Court and this Court cannot go behind the decree already passed as is settled law. No doubt a curative petitioner is pending against the judgment and decree dated 3.7.2007 in the Appellate Court, however, in the absence of any stay by the learned Appellate Court, this Court has no option but to proceed further with the execution proceedings. Therefore, there being no merit in the objections of the JD, the same is hereby dismissed.”

- 3. I have heard learned counsel for the petitioners and perused the record with his able assistance.
- 4. At this stage, learned counsel for the petitioners seeks withdrawal of the present petition with liberty to avail his alternative remedy, in accordance with law.
- 5. Dismissed as withdrawn with liberty aforesaid.

August 07, 2024  
sumit.k

(VIKAS SURI)  
JUDGE

Whether speaking/reasoned : Yes / No  
Whether Reportable : Yes / No