



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

ESA-4225-2018 (O&M)
Date of decision: 19.07.2024

RULD DASS THROUGH SPECIAL POWER OF
ATTORNEY SH. SURINDER PAL SINGH

..Appellant

Versus

SARABJIT KAUR & ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunny K. Singla, Advocate
for the appellant.

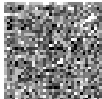
Mr. A.K. Garg, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. In a suit for recovery of Rs.4,90,977/- on the basis of pro-note and receipt, a money decree was passed in favour of the appellant on 26.08.2015. In the execution petition, some property of the judgment debtor was sought to be attached. The respondent, who is judgment debtor's wife filed objection claiming that the property is owned by her and it does not belong to the judgment debtor. To this effect, she relied upon a Civil Court decree dated 22.01.2005 in her favour. The Executing Court has allowed the respondents objection petition, which in appeal has been affirmed by the First Appellate Court.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the appellant submits that the aforesaid Civil Court decree is collusive and has never been implemented in



the revenue record. He submits that the implementation of the decree should not be delayed on the basis of a collusive decree.

4. Per contra, the learned counsel representing respondent No.1 submits that the decree was passed much before the filing of the suit while acknowledging her pre-existing right of maintenance. He submits that the decree passed by the Court is valid and enforceable unless set aside by the competent Court.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. The learned counsel representing the appellant does not dispute the fact that he has never filed any suit for declaration to the effect that the decree dated 22.01.2005 in favour of the respondent is invalid or enforceable. In absence thereof, the decree is a valid decree and continues to be in operation. It is not in dispute that the aforesaid decree between the husband and wife was passed much before the filing of the suit for recovery.

7. Moreover, failure to get the mutation sanctioned on the basis of the decree does not have any adverse consequence upon the defendants rights. The updation of the revenue entry is for fiscal purpose, however, it does not affect the ownership. The respondents right to the property is acknowledged by a Civil Court decree.

8. Hence, no ground to interfere is made out.

9. Dismissed accordingly.

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

July 19th, 2024

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No