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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 26.02.2024.

Sudesh Kumari

...Petitioner.

Versus

Satwinder Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Akhilesh Vyas, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 25.07.2023 (Annexure P-14) passed by learned trial Court, vide which the objections filed by the petitioner in the Execution Application bearing No.87 of 2019, were dismissed and the order dated 05.08.2023 (Annexure P-15), vide which warrants of possession were executed and possession was taken by respondents.

2. The brief facts relevant for the adjudication of the present revision petition are that respondents No.1 and 2 filed a suit for possession by way of specific performance of agreement to sell dated 14.06.2006 with respect to the suit property. The said suit was exparte decreed in favour of the respondents, vide judgment and decree dated 29.10.2013. Thereafter, petitioner filed an application under Order 9 Rule 13 CPC for setting aside

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the said exparte judgment and decree. Respondents No.1 and 2 also filed an execution petition under Order XXI Rule 11 CPC for execution of decree dated 29.10.2013. The petitioner filed her objections to the said execution petition but the said objections were dismissed by the Executing Court, vide order dated 25.07.2023. The execution filed by the respondents/ DH was dismissed as withdrawn being fully satisfied, vide order dated 19.12.2018 of the trial Court, on the joint statement suffered by Satwinder Singh and Sukhpal Singh, as the sale deed had been executed in favour of respondents No.1 and 2.

3. Later on, he again filed second execution claiming possession of the property, wherein it was submitted by the petitioner by way of raising objections that when the previous execution had already been dismissed as withdrawn being fully satisfied for a particular decree, so there was not any ground permissible in law to file the other execution for seeking the possession. But the objections filed by the petitioner were dismissed by the trial Court, vide order dated 05.08.2023. So by way of filing the present revision petition, the petitioner has challenged the order dated 25.07.2023 and the order dated 05.08.2023 passed by the Executing Court. The second execution application was dismissed as satisfied after the warrants of possession were received back and the decree holder Satwinder Singh suffered the statement that he did not want to proceed with the said execution as he had taken possession of the demised premises from the judgment debtor and the execution has been fully satisfied. Hence, the petitioner has knocked the doors of this Court by way of filing the present

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revision petition.

4. Learned counsel for the petitioner has contended that when the first execution filed by the decree holder had been dismissed as satisfied on 19.12.2018 on the statement suffered by respondents Satwinder Singh and Sukhpal Singh, then the respondents could not be permitted to file the second execution, for issuing the warrants of possession. He has contended that when the first execution has been dismissed as fully satisfied then it left no scope for filing the second execution for any other purpose. He has also submitted that the legal and valid objections raised by the petitioner were not considered and were declined by the Executing Court and the warrants of possession were executed for making the execution satisfied for the second time. He has argued that the principle of *res judicata* is based on the need of giving finality to judicial decisions which prevents the same case being litigated twice. In the case of the present execution also, when the execution had once been withdrawn as being satisfied, then the question of seeking liberty for filing the second execution for implementation of same decree does not arise at all and it has been contended that the impugned orders are liable to be set aside.

5. I have heard learned counsel for the petitioner and have gone through the relevant record.

6. As is evident from the impugned order dated 25.07.2023, the aforesaid contentions raised by the petitioner had been considered by the Executing Court, as the petitioner had filed the objections to the effect that the second execution application was not maintainable regarding the same decree which had already been satisfied.

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7. The perusal of the order dated 19.12.2018 passed by the Executing court reveals that respondents Satwinder Singh and Sukhpal Singh suffered the statement that the sale deed had been executed in their favour as per the decree passed in their favour, so the execution petition stood fully satisfied and they withdrew the same, subject to the condition that they reserved their rights to file separate execution for seeking possession of the suit property and get the mutation sanctioned in their favour. In view of the aforesaid joint statement suffered by them, the execution was dismissed as withdrawn being fully satisfied. Thus, the first execution was dismissed as fully satisfied qua execution of the sale deed in favour of decree holders.

8. The withdrawal was also made subject to reserving their rights to file separate execution for seeking possession of the suit property. The trial Court has rightly observed that the decree granting relief of specific performance of the contract was wide enough also to include the relief of possession which was agreed in the agreement to sell, which was not fully satisfied at the time of filing of the previous execution. So the second execution petition for seeking relief of possession was well maintainable.

9. The perusal of impugned order dated 05.08.2023 of the trial Court reveals that the warrants of possession were received back duly executed, so decree holder Sukhpal Singh suffered the statement that he did not want to proceed with the execution as he had taken the possession of the demised premises from the judgment debtor and the execution had been fully satisfied. In view of his statement and since the warrants of possession

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had been received back duly executed, this execution was dismissed as fully satisfied.

10. Thus, there being no illegality or infirmity in the impugned orders no interference therewith is called for while exercising the revisional jurisdiction by this Court. The present revision petition being bereft of any merits stands dismissed.

11. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

26.02.2024.

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