

152 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7586-2023(O&M)

Date of decision :22.02.2024

Haryana Shehri Vikas Pradhikaran formerly
known as Haryana Urban Development Authority

...Petitioner

Vs.

Neelam Sharma and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arvind Seth, Advocate
for the petitioner.

Mr. Inder Pal Singh, Advocate and
Ms. Krishna Sharma, Advocate for respondent No.2.

ANIL KSHETARPAL, J.(Oral)

1. Haryana Shehri Vikas Pradhikaran, formerly known as Haryana Urban Development Authority, Panchkula assails the correctness of orders passed on 21.04.2022, 15.11.2022 and 06.09.2023 passed by the Executing Court while deciding objection petition filed by the petitioner herein.

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

3. Neelam Sharma filed a suit for declaration to the effect that she as well as defendant No.1 i.e. Devki Devi are owners in equal share of plot No. 721, Sector 11, Panchkula, which was previously owned by Om Parkash. Haryana Urban Development Authority was also impleaded as defendant No.2. The aforesaid suit was decreed with the following directions:-

“It is ordered that the suit of the plaintiff stands decreed to the effect that plaintiff and defendant No.1 are the owners in equal share of plot No. 721, Sector-

11, Panchkula, owned by late Shri Om Parkash and defendant No.2 is directed to transfer the said plot in favour of the plaintiff and defendant no.1 in equal shares. Parties are left to bear their own costs.”

4. Neelam Sharma and Devki Devi filed execution petition complaining that the decree has not been complied with. In the aforesaid execution petition, the petitioner filed objections that as per the policy, the petitioner is required to deposit extension fee as it failed to construct the building within the prescribed time. The aforesaid objection petitions have been dismissed by the Court on the ground that the decree is not conditional.

5. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

6. Learned counsel representing the petitioner submits that liability to pay extension fee was neither an issue in the suit nor decided by the Court. He submits that only a decree for declaration has been passed in favour of Neelam Sharma and Devki Devi to the effect that they are owners of the property in equal share. Directions have also been issued to the petitioner to transfer the said plot. He submits that the allotment letter has also been issued. He submits that the Execution Court has erred in recording finding that the petitioner is not entitled to charge extension charges for failing to construct the building within the prescribed time.

7. On the other hand learned counsel representing the respondents submits that the objection petition was filed by the petitioner on which the Executing Court has recorded finding. He submits that the petitioner was party and hence the decree is binding.

8. This Court has considered the submissions. The Executing Court is expected to implement the decree. The Executing Court cannot travel beyond the decree, which has been passed. It is not disputed by the learned counsel representing the parties that the issue with regard to liability to pay extension fee was never subject matter of adjudication in the civil suit. Hence, the orders passed by the Executing Court on 21.04.2022, 15.11.2022 and 06.09.2023, are set aside. The property has already been transferred in favour of respondents, namely, Neelam and Devki Devi. They are aggrieved of a particular clause in the re-allotment letter. They shall have liberty to assail its correctness in appropriate proceedings.

9. The petition stands disposed of.

22.02.2024		(ANIL KSHETARPAL)
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	Whether speaking/reasoned :	Yes No
	Whether Reportable :	Yes No