



In the High Court of Punjab and Haryana, at Chandigarh

1. Execution Second Appeal No. 9 of 2020 (O&M)

Amit Arora

... Appellant(s)

Versus

Hari Dev Mehta and Others

... Respondent(s)

AND

2. Execution Second Appeal No. 20 of 2021 (O&M)

Hari Dev Mehta

... Appellant(s)

Versus

Amit Arora and Others

... Respondent(s)

**RESERVED ON: 13.05.2025
PRONOUNCED ON: 16.05.2025**

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Mandeep Singh Sachdev, Advocate
for the appellant (In ESA-9-2020) and
for respondent No.1 (In ESA-20-2021).

Mr. Gurvinder Arora, Advocate
for respondent No.1 (In ESA-9-2020) and
for the appellant (In ESA-20-2021).

Anil Kshetarpal, J.

I. Brief Facts of the Case

1. With the consent of the learned counsel representing the parties, two connected execution second appeals shall stand disposed of by this common order.

2. In the Execution Second Appeal No. 9 of 2020, the subsequent

purchaser of the suit property assails the correctness of the concurrent orders passed by the Executing Court as well as the First Appellate Court while dismissing his objection petition.

3. In Execution Second Appeal No. 20 of 2021, the decree holder assails the correctness of the First Appellate Court's order setting aside the Executing Court's order directing the registration of an FIR against the judgment debtors and the objector.

4. Haridev Mehta filed a suit on 23.11.2005 for possession by way of specific performance of agreement to sell dated 25.06.2003 in respect of the shop measuring 3 marlas comprising in khasra No. 326 (0-3) and 325 (0-7) situated on the Railway Road, Bhogpur, Tehsil and District Jalandhar. The suit was filed with respect to a specific shop with the boundaries described as under:-

East	: Jamna Dass
West	: Owner Gurmail Singh
North	: Amrik Singh
South	: Railway Road, Bhogpur.

5. The suit was decreed on 05.12.2008, which, in first and second appeals, was affirmed. Thereafter, the struggles of the decree holder to get possession of the property continues. The sale deed in favour of the decree holder was executed on 25.09.2013. The judgment debtors transferred the land measuring 2.25 marlas vide sale deed dated 08.11.2012 in favour of Paramjit Kaur, mother-in-law of Sukhwinder Singh son of Jarnail Singh (JD), who, in turn, sold the property in favour of the appellant on 18.07.2018. Thus, the objector purchased the suit property, ten years after the decree was passed in favour of the decree holder.

II. Arguments Addressed

6. The learned counsel representing the appellant in Execution Second Appeal No. 9 of 2020 has filed the written submissions challenging the concurrent orders on the following grounds:-

- i) The decree holder has purchased the joint family property. Hence, he cannot get specific possession without partition.
- ii) The objector has become co-owner and hence, the possession cannot be taken from him without partition.
- iii) The execution petition for delivery of possession of the specific portion is not maintainable in the absence of partition.
- iv) No issues have been framed and the objections have been dismissed summarily.
- v) The Appellate Court could not have gone beyond the decree passed.

III. Analysis and Discussion

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

8. As already noticed, the decree in favour of Haridev Mehta is with respect to a specific shop which is identified by the properties located in all the four directions. Hence, the decree holder never purchased the undivided share in the joint property. Consequently, the submissions No.(i) to (iii) lack substance.

9. With regard to submission No.(iv), it is observed that all the

objection petitions are not required to be decided after framing the issues. Prima facie, merit of the objection petition is to be examined by the Executing Court.

10. The last submission of the learned counsel representing the appellant lacks substance because the First Appellate Court has directed implementation of the decree.

11. In Execution Second Appeal No. 20 of 2021, the First Appellate Court has also set aside the directions issued by the Executing Court for registration of FIR. It would be noted here that on the information given by the decree holder, FIR has already been registered. Hence, it is not necessary to get the FIR registered against the judgment debtors. However, it is observed that the JDs have left no stone unturned to harass the decree holder. The FIR already registered by the decree holder will continue and shall remain unaffected by the observations made by the First Appellate Court.

IV. Decision

12. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned orders in both the appeals. Hence, both the appeals are dismissed.

13. The miscellaneous application(s) pending, if any, in both the appeals, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

May 16, 2025
“DK”

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