



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-2314-2024

Date of decision : 24.02.2025

Bhajno (now deceased) through her legal representatives and others

... Petitioners

Versus

Bhupinder Pal Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.G.S. Punia, Senior Advocate with
Mr.P.S. Punia, Advocate
for the petitioners.

Mr.S.K. Chawla, Advocate (through V.C.) and
Mr.Nitin Verma, Advocate
for the caveators- respondents no.1 and 2.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 21.03.2024 (Annexure P-1) passed by the Additional Civil Judge (Sr.Div.), Faridkot in Execution no.EXE-113-2018 vide which the objection filed by the petitioners-judgment debtors has been dismissed.

2. Learned senior counsel for the petitioners has submitted that in the present case, a suit for possession by way of specific performance of agreement to sell and for permanent injunction was filed by respondents no.1 and 2 against Bhajno in the year 2008 and during the pendency of the said suit, the said Bhajno had died on 21.02.2009 and the brothers of the



representatives subject to just exceptions on the basis of a registered Will dated 26.05.1998. It is submitted that the suit was decreed by the trial Court vide judgment dated 02.07.2018 and the respondents no.1 and 2-plaintiffs were required to offer the balance sale consideration to the legal heirs / LRs of defendant no.1 within a period of two months from the date of the decree but the same was not done and the period of two months elapsed on 02.09.2018. It is further submitted that since the respondents no.1 and 2 had not complied with the decree, thus, the contract/agreement rescinded as per the provision of Section 28 of the Specific Relief Act, 1963. It is submitted that the petitioners had filed their objection dated 20.04.2019, which have been illegally dismissed by the Executing Court. It is submitted that the order dismissing the objection of the petitioners deserves to be set aside and the objection filed by the petitioners deserves to be allowed and since the decree stands rescinded, thus, neither the sale deed deserves to be executed nor the possession of the suit property should be delivered to the respondents no.1 and 2. In support of his arguments, learned senior counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Prem Jeevan vs. K.S. Venkata Raman and another*** reported as ***2017 AIR (SCW) 623***.

3. Learned counsel for the contesting respondents no.1 and 2, on the other hand, has submitted that the present revision petition has been filed only to delay the fruits of decree in favour of the respondents no.1 and 2. It is submitted that the trial Court while passing the decree had purposely used the term “legal heirs / legal representatives” of defendant no.1 and the offer was to be made to them within a period of two months. It is argued



that prior to any objection filed by the petitioners, the execution application was filed by the respondents no.1 and 2 on 09.08.2018 and in the said proceedings, a caveat was filed by the sons of late Smt.Bhajno, who had stated that they were her legal heirs and had also relied upon the registered Will dated 22.01.2009, which was annexed as Annexure A-1 along with their caveat application (Annexure P-4) filed in the execution proceedings.

4. It is submitted that in the said application, it was specifically stated by the applicants Sukhmander Singh and Chamkaur Singh sons of Bhajno alias Bhajan Kaur that they were the legal heirs of the deceased Bhajan Kaur and they had no objection in case the decree in question was executed by the decree holders after making payment of the remaining sale consideration. It is submitted that as is apparent from the zimni orders, the respondents no. 1 and 2 had made the offer to the said legal heirs to pay the balance sale consideration on 31.08.2018 i.e., within the period of two months from the date of judgment and decree dated 02.07.2018 and it was the counsel for the legal heirs who had sought adjournment. It is submitted that thereafter the counsel for the said legal heirs had pleaded “no further instructions”, however, the respondents no.1 and 2 had already deposited the balance sale consideration on 03.10.2018. It is submitted that thereafter notices were issued to the present petitioners-judgment debtors and it was only thereafter that the objection dated 20.04.2019 was filed, which has been rightly rejected by the Executing Court.

5. It is argued that the respondents no.1 and 2-plaintiffs-decree holders had duly complied with the directions as per the judgment and decree dated 02.07.2018 and had even deposited the money much prior to



any objection filed by the petitioners. It is submitted that even an appeal was filed against the judgment and decree dated 02.07.2018 which was dismissed on 24.01.2023 and thus even on the principle of merger, the respondents no.1 and 2-plaintiffs are entitled to get the decree executed.

6. This Court has heard the learned senior counsel for the petitioners as well as learned counsel for the contesting respondents no.1 and 2 and has perused the paper book and finds that the impugned order is in accordance with law and deserves to be upheld and the present petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

7. It is not in dispute before this Court that the respondents no.1 and 2 had filed a suit for possession by way of specific performance of agreement to sell and for permanent injunction on 07.04.2008 and the said suit was decreed vide judgment and decree dated 02.07.2018. The relevant portion of the said judgment is reproduced hereinbelow:-

“Relief:

53. *As a sequel to the above discussion, I find merit in the plaintiffs' suit and it is accordingly decreed, with costs. The plaintiffs are held entitled to specific performance of the agreement for sale dated 16.12.2004 executed by the defendant No.1 in their favour. The plaintiffs **shall offer** the balance sale consideration, if any, to the **deceased defendant No.1's legal heirs/ legal representatives** within a period of two months from the date of the decree, and within a period of one month from the date of such offer, the latter shall execute and get registered the sale deed in favour of the plaintiffs, failing which the plaintiffs shall be at liberty to get the sale deed executed and registered through the process of Court of law. The sale deed dated 20.12.2004 executed by the defendant No.1 in favour of the defendants Nos.2-4 qua the suit land, is,*



*hereby, declared null, void and is set aside. The defendants Nos.2-4 are directed to join the deceased defendant No.1's legal heirs/ legal representatives in the execution and registration of the sale deed in favour of the plaintiffs. **The defendants are perpetually restrained from alienating the suit land in favour of any person other than the plaintiffs and from changing the nature thereof detrimental to the interests of the plaintiffs. Decree be drawn accordingly.***

*Pronounced in the open court on
02nd day of July, 2018
Inderjeet Singh*

*(Kapil Dev Singla), PCS(J),
Additional Civil Judge (Senior Division),
Faridkot.
UIDNo.PB0238”*

A perusal of the above would show that the trial Court in the said case had not directed the respondents no.1 and 2 – plaintiffs to deposit the balance sale consideration rather an offer to pay the balance a consideration was to be made.

8. It would be relevant to note that during the pendency of the suit, Bhajno (defendant) had died on 21.02.2009 and to pursue the proceedings, her brothers were impleaded as her legal representatives. The order impleading them as legal representatives has not been placed on record but it is a matter of settled law that any such impleadment is always subject to just exceptions and cannot be construed as an adjudication of the entitlement of the estate of the deceased in favour of the persons impleaded. The said impleadment is only for the purpose of continuing with the case. It would be relevant to mention that admittedly Bhajno had two sons and two daughters, whereas it was the brothers of Bhajno who had got themselves impleaded as her legal representatives.



9. The appeal filed against the said judgment and decree was dismissed on 24.01.2023. The said fact has not been disputed before this Court, although the judgment of the Ist Appellate Court has not been annexed with the present petition. It is also not disputed that no regular second appeal was filed and thus, the said judgment dated 02.07.2018 has attained finality. Admittedly on 09.08.2018, the respondents no.1 and 2 had filed the execution application which was within the period of two months from the passing of decree dated 02.07.2018. It is not in dispute that an application / caveat application was filed by Sukhmander Singh and Chamkaur Singh sons of Bhajno, who had claimed that a registered Will dated 22.01.2009 was executed by Bhajno in their favour and had also submitted affidavits of their sisters in their favour. The said registered Will and the affidavits were annexed as Annexures A-1, A-2 and A-3 along with their application, which has been annexed as Annexure P-4 in the present case. In the said application it was stated by the sons of Bhajan Kaur that the brothers of said Bhajan Kaur had illegally got themselves impleaded as legal representatives of Bhajno and had not disclosed about the natural heirs of Bhajno and that they had no knowledge of the suit proceedings and after enquiry it had been revealed that the present suit had been filed by respondents no.1 and 2, which had been decreed on the basis of agreement executed by Smt.Bhajno on 16.12.2004 and that she had received an amount of Rs.1,50,000/- under the same.

10. On 31.08.2018, an offer was made by the respondents no.1 and 2 to pay the balance sale consideration to the said legal heirs of the deceased Bhajan Kaur. The order dated 31.08.2018 which has been reproduced at



running page 107 is reproduced hereinbelow:-

*“Bhupinderpal Singh & another Versus Bhajno & others
EXE-113-2018.*

Present:

Sh.Satish Kumar Chawla, Advocate for the decree holder.

Sh. Pardeep Grover, Advocate for the Caveators.

*Requisite report made by the Execution Clerk is perused.
The execution Clerk has made a report in the terms that the
deceased J.D. No. 1-Bhajno's sons-Chamkaur Singh,
Sukhmander Singh have lodged a Caveat Under Section 148-
A C.P.C. in relation to the present proceedings.*

The execution application be registered.

*The Counsel for the decree holder has offered to pay
the balance sale consideration to the deceased J.D. No. 1's
legal heirs/legal representatives, including the caveators.
However the counsel for the caveators requested for an
adjournment to be able to receive the balance sale
consideration from the decree holder.*

*To come up on 29-09-2018 for the decree holder's
making payment of the balance sale consideration to the
deceased J.D. No. 1's legal heirs/legal representatives
including the caveators.*

Dated: 31-08-2018

*(Kapil Dev Singla)
ACJ (SD)/ Faridkot
(UID No. 0238).”*

Inderjeet Singh.

Next Date: 29-09-2018”

11. From the above, it is apparent that the respondents no.1 and 2 had made the offer with respect to the payment of balance sale consideration within the period of two months as directed i.e., from 02.07.2018, to the legal heirs / legal representatives, who were also caveator in the execution

proceedings. Since on 29.09.2018 Court was on leave, thus, the matter was



taken up on 28.09.2018 and was adjourned to 07.12.2018. The order dated 28.09.2018 which has been reproduced at running page 109 of the paper book is reproduced hereinbelow:-

“Present: None.

File taken up today as I shall be on Casual Leave on 29-09-2018.

Now to come up on 07-12-2018 for the same purpose as already fixed for. The Counsel for the parties be informed accordingly.

*Dated: 28-09-2018
Ashish Behal.*

*(Kapil Dev Singla)
ACJ (SD)/ Faridkot
(UID No.PB0238)”*

12. It is not in dispute that on 03.10.2018, the respondents no.1 and 2 had even deposited the balance sale consideration of Rs.4,21,500/- and the relevant portion of the zimni order dated 03.10.2018 has been reproduced in paragraph 10 of the present petition. It is thus apparent that the respondents no.1 and 2 were always ready and willing to comply with the directions of the Court and when the matter was adjourned by the Executing Court on 28.09.2018 to 07.12.2018, even then the respondents no.1 and 2-plaintiffs-decree holders deposited the amount in question during the interregnum on 03.10.2018. A further perusal of the zimni order dated 07.12.2018, which has been reproduced at running page 110 of the paper book, would show that the counsel for the caveators on the said date had stated that he had “no further instructions” in the matter and notices were issued to the judgment debtors. On 20.04.2019, much after the amount had been deposited and the offer had been made to the legal heirs, who were the sons of Bhajan Kaur, the petitioners filed objection (Annexure P-5).



to the said objection. In the said reply, all the detailed facts were given and it was stated that the objection had been filed only to delay the proceedings. Even the zimni orders which have been referred to hereinabove were reproduced in the said reply.

14. The Executing Court vide order dated 21.03.2024 was pleased to dismiss the said objection and while dismissing the same had observed that the trial Court had used the words “legal heirs/legal representatives” of defendant no.1 and in the opinion of the Executing Court the term “legal heirs” would mean Class-I heirs and the brothers, who had been impleaded as legal representatives in the suit, were only impleaded to represent the said Bhajno for the purpose of the said suit. It was observed that the offer was made by the plaintiffs-respondents no.1 and 2- decree holders to legal heirs of the defendant no.1-Bhajno within the period of two months from the date of decree i.e., on 31.08.2018 and thus, the objection filed by the petitioners was meritless and was dismissed.

15. This Court is of the opinion that the present revision petition is meritless and deserves to be dismissed. Firstly, a perusal of the facts stated hereinabove would clearly show that the respondents no.1 and 2-plaintiffs-decree holders had complied with the directions in the judgment and decree dated 02.07.2018. The said judgment and decree required the respondents no.1 and 2 to offer the balance sale consideration, if any, to the legal heirs/legal representatives of defendant no.1. It is not in dispute and it is so recorded in the zimni order dated 31.08.2018 that the said offer had been made by the respondents no.1 and 2-plaintiffs to the caveators, who are the sons of Bhajan Kaur and as per the caveat application it had been stated by



them that they were the true legal heirs. Once the sons of the said Bhajan Kaur had filed a caveat and the offer had been given to them, then it cannot be said that the plaintiffs had not complied with the directions made by the trial Court. To add to the same, it is also not disputed that on 03.10.2018 the balance sale consideration was deposited by the respondents no.1 and 2-plaintiffs and the same had been done much prior to any objection filed by the petitioners. The same also clearly shows that the respondents no.1 and 2 always intended to comply with the directions issued in the judgment and decree dated 02.07.2018. It is a matter of settled law that it is the duty of the Executing Court to make sure that the judgment and decree of the Court is executed and the execution should not be rejected on technical grounds. Further the judgment and decree dated 02.07.2018 passed by the trial Court in the present case has even been upheld in appeal vide judgment and decree dated 24.01.2023 passed by the first Appellate Court and no further appeal therefrom has been filed and thus, the said judgment and decree dated 02.07.2018 has attained finality.

16. The trial Court in the judgment and decree dated 02.07.2018 had observed that the offer had to be made to the “legal heirs / legal representatives” of defendant no.1. There was no observation made that the said offer had to be made to the persons who were already impleaded as legal representatives. Thus, in the said circumstances, the respondents no.1 and 2-plaintiffs cannot be faulted with for having made the said offer to the sons of Bhajno, who were admittedly the natural heirs of the said Bhajno and had filed a caveat petition. Merely having been impleaded as legal representatives in the proceedings would not give an absolute right to the



brothers of Bhajno to claim the estate of the said Bhajno and the said aspect would be considered independently in separate proceedings.

17. The judgment of the Hon'ble Supreme Court relied upon by the learned senior counsel for the petitioners in the case of ***Prem Jeevan (supra)*** does not further the case of the petitioners as the same is based upon completely different facts. In the said case there was no plea raised by the plaintiff therein to the effect that they had made an offer to the persons who represented themselves to be the legal heirs of the deceased. In fact in the said case, the judgment of the trial Court clearly observed that “after receipt of the balance sale consideration”, the sale deed was to be executed. In the present case, the trial Court has not used the term “receipt” but has used the term “offer”. Moreover, in the abovesaid case before the Hon'ble Supreme Court, it was undisputed that neither the amount was deposited by the plaintiff-decree holder therein within the time stipulated in the decree nor any extension of time was sought nor the same was granted nor any explanation had been furnished for delay in making the deposit. Furthermore in the said case, the execution was filed after a period of two years and two months from the date the amount was to be deposited. In the present case as has been detailed hereinabove, the facts are completely different and the execution had been filed on 09.08.2018, within the period of two months from the date of the judgment and decree dated 02.07.2018 and even the deposit had been made on 03.10.2018, prior to filing of any objection and as is apparent from the record, even the offer to pay the balance sale consideration was made within two months to the sons of the said Bhajno, claiming themselves to be the natural /legal heirs of said



Bhajno.

18. Keeping in view the abovesaid facts and circumstances, the impugned order deserves to be upheld and is accordingly upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

February 24, 2025.
Davinder Kumar

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