

Date of decision :01.05.2025

ESA-228-2016 (O&M)

Vs.

...Respondents

ESA-229-2016 (O&M)

Vs.

...Respondents

ESA-230-2016 (O&M)

Vs.

...Respondents

CR-3956-2019 (O&M)

Vs.

...Respondents

Present: Mr. Arihant Jain, Advocate
Mr. Arun Jindal, Advocate
Mr. Charika Singla, Advocate
for the appellant(s) ESA Nos. 228, 229, 230 of 2016 and
for the petitioner in CR-3956-2019.



Mr. Sunny K. Singla, Advocate
for respondents No. 1.
None for respondents No. 2 and 3.

ANIL KSHETARPAL, J. (Oral)

I Brief Facts:-

1. With the consent of learned counsel representing the parties, Execution Second Appeals No. 228, 229, 230 of 2016 and Civil Revision No. 3956 of 2019 shall stand disposed of by this common order.

2. Sh. Budh Singh borrowed different amounts separately from Sh. Ajaib Singh, Sh. Lakhvir Singh and Sh. Kamaljit Singh after execution of the pro-notes and receipts but defaulted in re-payment. On 29.11.2004, Sh. Ajaib Singh filed a suit for recovery of Rs.2,56,000/- (approximately), alongwith interest, which was decreed vide *ex parte* decree dated 26.05.2005. Similarly, Sh. Kamaljit Singh filed a suit on 08.12.2004, which was contested by Sh. Budh Singh and decreed on 18.12.2006. Sh. Lakhvir Singh filed a suit for recovery on 04.01.2007, which was decreed on 20.10.2008.

3. Sh. Amarjit Singh and Sh. Budh Singh are related to each other. Sh. Amarjit Singh Singh filed a suit for specific performance of the agreement to sell allegedly executed by Sh. Budh Singh on 11.11.2004. Sh. Budh Singh denied the execution of the agreement to sell but did not furnish any other explanation. It was a simple denial of execution of the agreement to sell. The suit filed by Sh. Amarjit Singh was decreed on 12.11.2009. In execution of the three decrees for recovery of separate amounts, different portions of the property of Sh. Budh Singh were auctioned on 30.05.2009, 17.07.2009 and



16.08.2009, which were confirmed subsequently. On the other hand, Sh. Amarjit Singh filed an execution petition, in which, sale deed was executed in favour of Sh. Amarjit Singh on 12.08.2016.

4. Sh. Amarjit Singh filed three objection petitions in three execution petitions claiming that he has a superior right. Both the Courts came to the conclusion that Sh. Budh Singh and Sh. Amarjit Singh were related to each other as son of Sh. Budh Singh was married to daughter of aunt of Sh. Amarjit Singh. Thus, both the Courts below came to the conclusion that Sh. Budh Singh and Sh. Amarjit Singh have tried to defeat the rights of the creditors by filing a suit for specific performance of the agreement to sell. In Civil Revision petition, Sh. Amarjit Singh prays for setting aside order passed by the Appellate Court on 04.02.2019, wherein, it has been again held that the sale in favour of the auction purchaser, namely, Sh. Ramesh Chand in execution of the money decree was correct.

II Arguments:-

5. Learned counsel representing the appellant-Sh. Amarjit Singh has made the following submissions:

- I. The attachment and Court auction of the property is infringement of injunction order granted in favour of Sh. Amarjit Singh in a suit for specific performance of the agreement to sell.
- II. Decree for specific performance of the agreement to sell granted in favour of the appellant can not be



frustrated as it has attained finality.

III. Analysis and Discussion:-

6. This Court has considered the submissions made by the learned counsel representing the parties.

7. The injunction order was against Sh. Budh Singh and not against the Court. Attachment and auction of the property was ordered by the Court in execution of the three money decrees.

8. With respect to the second submission, it would be noted that there is a positive concurrent finding of the Courts below that the suit filed by Sh. Amarjit Singh was in collusion with his relative Sh. Budh Singh. Though, learned counsel representing the appellant made feeble attempt by submitting that Sh. Budh Singh and Sh. Amarjit Singh are not closely related, however, their relationship is not in dispute.

IV Decision:-

9. Keeping in view the aforesaid facts, no ground to interfere is made out.

10. Hence, ESA Nos. 228, 229, 230 of 2016 and CR-3956-2019 are dismissed.

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

01.05.2025

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(ANIL KSHETARPAL)
JUDGE

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