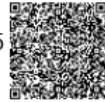


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2025:PHHC:062085



ESA-45-2017 (O&M)
Date of decision: 12.05.2025

KRISHNA DEVI**..Appellant**

Versus

PHOOLWATI AND ORS**..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sumit Gupta, Advocate
for the appellant.

Mr. R.S. Chahal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The third party objector assails the correctness of First Appellate Court's order, which in turn has reversed that of the Executing Court.
2. Smt. Phoolwati filed a suit for grant of decree of permanent injunction restraining the defendants (Sh. Sube Singh and Sh. Birbal) from interfering in her possession of suit property. She claims to have purchased the property from her husband Sh. Rameshwar Dass by virtue of sale deed dated 25.05.1974, who in turn purchased the property from one Sh. Bhim Singh son of Sh. Kanhaiya in the year 1954. The suit was filed in the year 1982, which was decreed on 14.10.1983. She filed execution petition. The appellant Smt. Krishna Devi filed objection petition on the ground that she has purchased the property from Sh. Sube Singh vide registered sale deed dated 10.09.1974 i.e. before filing of the suit.
3. The objections filed by the appellant were allowed and the execution petition was dismissed by the Executing Court. The First Appellate



Court has reversed the same on the ground that Sh. Sube Singh and Sh. Yad Ram filed two separate suits challenging the decree, which were dismissed.

4. The execution of the injunction decree is regulated by Order XXII Rule 32 of the Code of Civil Procedure, 1908. The decree holder is required to prove that there was wilful violation of the injunction decree by the judgment debtor. Admittedly, the appellant is not judgment debtor. She purchased the property approximately 8 years before filing of the suit.

5. Moreover, the injunction decree operates against the judgment debtor and not against third party. The judgment passed in an injunction suit is not judgment in '*rem*' but in '*personam*'. The appellant is not representative of judgment debtor because she purchased the property before filing of the suit. Hence, the judgments passed in two civil suits, one filed by Sh. Sube Singh and second filed by Sh. Yad Ram would not come to the rescue of the decree holder.

6. Additionally, there is no decree for delivery of the possession in favour of decree holder.

7. Consequently, the appeal is allowed. The impugned order passed by the First Appellate Court is set aside and that of the trial Court is restored to its original number.

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

May 12th, 2025

Ayub

(ANIL KSHETARPAL)
JUDGE

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