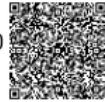


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

119

2025:PHHC:030220



**ESA-43-2023 (O&M)
Date of decision: 04.03.2025**

DARSHAN SINGH

..Appellant

Versus

LAKHWINDER SINGH AND ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshit Pathania, Advocate
for Mr. Vivek K. Thakur, Advocate
for the appellant.

Mr. K.S. Lakhanpal, Advocate
for S.S. Sandhu, Advocate
for respondent No.1.

ANIL KSHETARPAL, J (Oral)

1. The third party objector assails the correctness of concurrent orders passed by the Executing Court, which in appeal has been affirmed while dismissing his objection petition. The decree holder namely Sh. Lakhwinder Singh filed a suit for specific performance of agreement to sell dated 21.04.2014, executed by Sh. Ram Rattan Yadav. The suit was filed on 02.05.2017. As per the agreement to sell, Rs.3,30,000/- was paid as earnest money at the time of execution of the agreement to sell out of total sale consideration of Rs.4,00,000/-. The plaintiff's suit was decreed on 13.09.2019, subject to payment of balance sale consideration of Rs.70,000/-. The appellant claims that Sh. Ram Rattan Yadav by registered mortgage deed dated 11.06.2015, mortgaged the suit property in his favour against loan of Rs.5,50,000/-. That is how the appellant filed an objection petition. It is evident that the rights of appellant are subservient to the rights of the decree holder particularly when the decree for specific performance of the



agreement to sell has become final. At the most, the appellant claims charge on the property for recovery of loan. He can file a suit for recovery of the amount against the borrower, however, the appellant cannot claim superior right over the property as compared to that of the decree holder. Moreover, *prima facie*, the loan of Rs.5,50,000/- by mortgaging a property worth Rs.4,00,000/- appears to be doubtful, however, this Court is not expressing any final opinion.

- 2. Disposed of accordingly.
- 3. All the pending miscellaneous applications, if any, are also disposed of.

March 04th, 2025
Ayub

(ANIL KSHETARPAL)
JUDGE

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