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

ESA-6-2018 (O&M)

Date of decision: 02.05.2025

PYARE

..Appellant

Versus

PRABHU DAYAL (DECEASED) THROUGH LRS. & ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhir Aggarwal, Advocate
for the appellant.

Mr. Rakesh Sharma, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The third party objections filed by the appellant have been concurrently dismissed by the Executing Court, which in appeal has been affirmed by the First Appellate Court.

2. Sh. Arjun was the owner of land measuring 6 kanals and 8 marlas comprised in Killa No.11/2 and 20/1. On 01.05.1980, he executed two sale deeds of 16 and ½ (half) marlas each in favour of Sh. Het Ram and Sh. Shankar. Thus, he was left with 4 kanals and 14 marlas land, which was comprised in Khasra No.11/2/2/2 (1-10) and 20/1/2/2(3-4).

3. On 27.01.1981, Sh. Arjun sold 16 marlas land comprised in Killa No.20/1/2 min (East) (0-9), Killa No.11/2/2 min (East) (0-7). He further sold land measuring 1 kanal and 4 marlas to Sh. Kalu vide sale deed dated 05.06.1981 and on the same day, he sold land measuring 1 kanal and 10 marlas comprised in Killa No.11/2/2 to the appellant-Sh. Pyare. Sh. Giri Raj entered into an agreement to sell with respect to 16 marlas land in favour



of decree holder namely the defendants. The suit for specific performance was filed, which was decreed in favour of Sh. Prabhu Dayal and others. In execution petition, sale deed has been registered, however, it was found that Sh. Pyare has constructed house, hence, he filed objections, which have been dismissed by both the Courts below.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel for the appellant submits that Sh. Arjun sold land measuring 24 marlas in favour of Sh. Kalu, which could not be adjusted equally from both the khasra numbers.

6. He further submits that all the parties will become joint owners and hence, the remedy for the decree holder is to seek partition.

7. This Court has considered the submissions of learned counsel for the appellant.

8. Admittedly, the appellant is the last party amongst the series of sale deeds executed by Sh. Arjun, hence, his rights are subservient to the sale deeds executed by Sh. Arjun earlier in point of time. Sh. Giri Raj purchased specific portion of the property vide sale deed dated 27.01.1981. He purchased 9 marlas located towards East of Killa No.20/1/2 and 7 marlas located towards East of Killa No.11/2/2. His rights are superior. Consequently, Sh. Prabhu Dayal, the decree holder has stepped into his shoes. His rights are also superior.

9. With regard to the argument regarding adjustment of entry with respect to sale deed executed in favour of Sh. Kalu, the same is not subject matter of this execution second appeal.



10. With respect to last submission, learned counsel for the appellant admits that Sh. Arjun was the exclusive owner of the property. He sold the specific portions from time-to-time. Hence, the purchasers would not become co-owners because sh. Arjun was the exclusive owner and he could sell any specific portion by specifically identifying the property. It is evident that Sh. Arjun while selling the land in favour Sh. Giri Raj sold a specific portion. Hence, neither Sh. Giri Raj would become co-owner with Sh. Arjun nor the decree holder would a become co-owner.

11. Hence, no ground to interfere is made out.

12. Dismissed.

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

May 02nd, 2025

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(ANIL KSHETARPAL)
JUDGE

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