



ESA-45-2022(O&M)

1

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

ESA-45-2022(O&M)

Date of decision:14.05.2025

Jagtar Singh

..Appellant

Versus

United Church of Northern India Trust Association and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ramneek Vasudeva, Advocate for the appellant
Mr. Rakesh Chopra, Advocate for respondent no.1

ANIL KSHETARPAL, J. (Oral)

1. The decree-holder assails the correctness of the First Appellate Court's order remitting the matter back to the Executing Court for fresh decision after framing the following issue:-

“1. Whether UCNITA is the owner in possession of the property, if so its effects? OPA.”

2. The appellant filed a suit for specific performance of the agreement to sell against United Church of Northern India (hereinafter referred to as 'UCNI') which was decreed on 20.04.2017. The decree-holder filed two execution petitions, one by Sh. Prem Masih being Special Power of Attorney of the United Church of Northern India Trust Association (hereinafter referred to as 'UCNITA') and second by Major Masih on behalf of Morinda of Northern India,



which were dismissed by the Executing Court. The First Appellate Court after considering all aspects of the matter found it necessary to permit UCNITA to lead evidence and prove that fact. Consequently, remitted the case back to the Executing Court. In substance, UCNITA claims to be owner of the property and UCNI was abolished in the year 1970. Learned counsel representing the appellant, while referring to the finding of the Executing Court, submits that the objectors had knowledge of the decree and have failed to prove authorization in their favour. Moreover, no evidence has been led to prove that UCNITA is owner of the property.

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

4. The objections were filed by Prem Masih on behalf of UCNITA which claims to be owner of the property. Hence, the court was required to give opportunity to UCNITA to prove its case.

5. Prima facie, the First Appellate Court has also found that the decree has been obtained by the appellant in collusion with the representative of UCNI. Unless the opportunity is given to UCNITA, they cannot prove their ownership and collusion between the decree-holder and the judgment debtor. The First Appellate Court has only granted them opportunity to prove the same.

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

7. Hence, dismissed.



ESA-45-2022(O&M) 3

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

(ANIL KSHETARPAL)
JUDGE

14.05.2025

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