



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

122

CR-7662-2023**Date of decision: 11.02.2025****SARITA****..Petitioner****Versus****SUNIL AND ANOTHER****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Rakesh Dhiman, Advocate
for the petitioner.

Mr. Rajesh Kumar Jangra, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is a third party objector. In fact, she is purchaser of the suit property by virtue of sale deed dated 25.07.2017. The respondent (decree holder) filed suit for possession by way of specific performance of the agreement to sell on 16.10.2018, which was ex parte decreed on 29.03.2022. The respondent claims existence registered agreement to sell in his favour on 08.08.2016, whereas, it is the case of the petitioner that there was agreement to sell in her favour on 29.07.2013. In execution of an ex parte decree, the petitioner filed objection petition, which has been dismissed on the ground that the petitioner has further transferred his rights by virtue of a registered sale deed.

2. Learned counsel for the petitioner submits that her objections cannot be dismissed on the ground that she has transferred her rights. He submits that the petitioner is interested in prosecuting the case.



3. On 04.09.2024, the following order was passed:-

“Based upon agreement to sell dated 08.08.2016, the suit for specific performance regarding property in dispute was filed on 16.10.2018 by plaintiff – Sunil (respondent No.1 herein) against defendant – Gurdyal (respondent No.2 herein). The said suit was decreed ex parte on 29.03.2022.

Petitioner herein is the third party objector, who had purchased the suit property from defendant/JD – Gurdyal by way of a registered sale deed dated 25.07.2017.

Contention of learned counsel for the petitioner is that since the petitioner had purchased the property from the judgment debtor prior to filing of the suit by the plaintiff – respondent No.1, therefore, the principle of lis pendens is not applicable and therefore, in the objections filed by him before the Executing Court, necessary issues should have been framed and only thereafter the right title interest of the petitioner were required to be adjudicated upon, as per Order 21 Rule 101 CPC.

Notice of moon for 29.01.2025.

In the meantime, status quo regarding the title as well as possession of the suit property shall be maintained.”

4. Learned counsel for the respondent (decree holder) submits that a valid decree has been passed and should be implemented expeditiously in the interest of justice. He further submits that the petitioner has lost locus to maintain the objection petition as she has already transferred the property.

5. This Court has considered the submissions of learned counsel for the parties.

6. The manner in which the Executing Court disposed of the objection petition is not appropriate. The petitioner herein purchased the property by registered sale deed before filing of the suit. Moreover, Sh. Gurdial son of Sh. Lal Chand, the defendant/judgment debtor never chose to contest the suit. Hence, in an uncontested suit ex parte decree has been passed in favour of the respondent (decree holder) namely Sh. Sunil. The petitioner being purchaser of the property before filing of the suit is entitled



to be heard. Hence, it was incumbent for the Executing Court to grant opportunity to the petitioner to prove her case.

7. Keeping in view the aforesaid facts, the impugned order passed by the Executing Court on 18.08.2023 is set aside while directing the Executing Court to cull out the issues and grant opportunity to the petitioner to lead evidence to prove her case.

8. With these observations, the revision petition is allowed.

February 11th, 2025

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(ANIL KSHETARPAL)
JUDGE

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