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

CR-5705-2019 (O&M)

Date of Decision: 21.01.2026

KANWARJIT SINGH (SINCE DECEASED) THR LRS Petitioners

VERSUS

MANJINDER SINGH Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Munish Gupta, Advocate for the petitioners.

Mr. Rahul Sharma, Senior Advocate with
Mr. Aditya Narayan Arya Garg, Advocate for respondent No.1.

Mr. Rajesh Bhatheja, Advocate for proposed respondent No.2.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed by the decree holder-petitioners challenging the order dated 23.07.2018 passed by the learned Executing Court concerned allowing the objections filed by the judgment debtor-respondent and dismissing the execution petition filed by the decree holder-petitioners.

2. Briefly the facts relevant to the present *lis* are that the plaintiff-petitioners herein filed a suit for possession by way of specific performance of the agreement dated 27.06.2005 regarding 29 Kanal 19 Marla of land. A compromise was entered into between the parties on 22.05.2009. The statements of the parties with regard to the compromise were also recorded.

Vide order dated 12.08.2011 passed by the learned Trial Court, the suit was

decreed in terms of the compromise entered into between the parties in the presence of the counsel for both the sides. Vide order dated 12.08.2011 it was directed as under :

'Compromise Ex.C1 has been produced on the record. The defendant has already suffered the statement that he has executed the sale deed in favour of the plaintiff as per compromise and only registration of the same remains to be done. Therefore, in view of the statement made by the parties, the suit of the plaintiff is ordered to be decreed as per compromise Ex.C1. Decree sheet be prepared. Compromise Ex.C1 shall form part of the decree sheet. Defendant is directed to execute/register the sale deed of the suit property in favour of the plaintiff on the payment of balance sale consideration of Rs.34,92,500/- and after adjusting the amount of Rs.10 Lacs already received as earnest money, within the period of two months from today, failing which plaintiff shall be entitled to get the sale deed executed through Court. Decree sheet be prepared. File be consigned to record room.'

Subsequently, the plaintiff-petitioners herein filed an execution petition averring therein that certain other amounts had been paid between 22.05.2009 and 12.08.2011 i.e. the date on which the compromise was entered and the date when the decree was passed. The plaintiff-petitioners herein prayed for adjustment of that amount and for execution of the compromise decree.

Objections were filed by the children of the judgment debtor-respondent stating therein that they have filed a suit against their father, namely, Manjinder Singh (respondent herein) in which stay had been granted by the Court on 09.11.2011. Vide order dated 06.01.2014 the objections were disposed off and the execution was ordered to be adjourned *sine die* granting liberty to the parties to apply for taking up the matter for further proceedings as and when the stay order in question is vacated or set aside. The suit filed by the children of judgment debtor-respondent was dismissed on 19.01.2016. Even the appeal filed by them was dismissed vide order dated 13.04.2018. Thereafter, the plaintiff-petitioners filed an application for restoration of the execution which was adjourned *sine die* vide order dated 06.01.2014. Objections were filed by the judgment debtor-respondent which were allowed vide order dated 23.07.2018 which is the order impugned herein. Interestingly, after the order dated 23.07.2018 allowing the objections and dismissing the execution filed by the plaintiff-petitioners, an appeal was preferred by the plaintiff-petitioners. The plaintiff-petitioners withdrew the said appeal on 16.11.2018 and the following order was passed by the Court concerned :

‘Ld. Counsel for the appellant suffered a statement that he withdraws the present appeal with liberty to avail appropriate remedy. Accordingly, present appeal is hereby dismissed as withdrawn. Record of trial Court be returned along with copy of this order and appeal file be consigned to the record room’.

Having withdrawn the appeal, the plaintiff-petitioners filed an application for recalling/correction of the order dated 12.08.2011 i.e. the order disposing off the suit in terms of the compromise. Simultaneously, after having withdrawn their appeal with liberty to avail appropriate remedy, the plaintiff-petitioners have filed the present revision petition challenging the order of the Executing Court dated 23.07.2018 i.e. the order dismissing the execution petition and allowing the objections filed by the judgment debtor-respondent.

3. Learned counsel for the plaintiff-petitioners would contend that since the order dated 23.07.2018 would stand in their way, as such the plaintiff-petitioners have preferred the present revision petition.

4. *Per contra*, learned senior counsel appearing on behalf of respondent No.1 would contend that in case the decree itself is modified, the order dated 23.07.2018 passed by the Executing Court would not stand in the way of the plaintiff-petitioners.

5. Heard.

6. In the present case the order dated 23.07.2018 itself is an appealable order and the appeal was rightly filed by the plaintiff-petitioners, which they chose to withdraw on 16.11.2018. Having withdrawn the said appeal, the order dated 23.07.2018 possibly cannot be challenged now in the present revision petition. There is no explanation forthcoming as to why the appeal was withdrawn with liberty to avail appropriate remedy and now the same order is being challenged in the present revision petition. An order, which is an appealable order, has to be challenged in an appeal and the procedure cannot be circumvented by filing the present revision petition. In

any case, as observed above, an appeal was rightly preferred, which was withdrawn. Having withdrawn the appeal, this Court is of the considered opinion that the present revision petition filed under Article 227 of the Constitution of India challenging the order dated 23.07.2018 passed by the Executing Court is not maintainable. Even otherwise the plaintiff-petitioners have already, after withdrawal of the appeal, filed an application for correction of the judgment and decree dated 12.08.2011.

7. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.01.2026
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No