

(2013) 08 P&H CK 0666

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 4682 of 2013

Naranjan Singh

APPELLANT

Vs

Amba Parsad and Another

RESPONDENT

Date of Decision: Aug. 7, 2013

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: Naveen Batra, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

Decree Holder-Naranjan Singh has filed this revision petition under Article 227 of the Constitution of India impugning judgment dated 13.05.2013 Annexure P-5 passed by the lower appellate Court. Petitioner-DH filed execution petition against respondent No. 2-Pritam Singh Guleria-Judgment Debtor (JD) for execution of decree for recovery of money. In the execution petition, land measuring 5 marlas was attached. Respondent no. 1-Amba Prasad filed objections Annexure P-2 against attachment of the said land alleging that he had purchased the said land from respondent no. 2-JD vide sale deed dated 25.10.2005 i.e. before attachment thereof in the execution proceedings and the objector-respondent no. 1 is bonafide purchaser thereof and at the time of attachment, respondent no. 2-JD was not owner thereof and so the said land is not liable to attachment.

2. DH by filing reply Annexure P-3 controverted the averments made by the objector and pleaded that the sale deed by JD in favour of objector is collusive and had been executed to frustrate the decree.

3. Learned executing Court vide order dated 19.09.2011 Annexure P-4 dismissed the objections filed by respondent no. 1-Amba Prasad, holding that the sale deed was

executed by the JD with malafide intention and to defeat the decree in favour of DH. However, appeal against the said order preferred by the objector-Amba Prasad has been allowed by learned District Judge vide impugned judgment dated 13.05.2013 and order Annexure P-4 passed by the executing Court had been set aside and issues have been framed on the objections preferred by respondent no. 1-objector. Objection petition was remanded to executing court for fresh decision of the objections after giving opportunity to the parties for leading evidence. Feeling aggrieved, the petitioner-DH has filed this revision petition.

4. I have heard counsel for the petitioner and perused the case file.

5. Counsel for the petitioner reiterated that the impugned sale deed in favour of respondent no. 1-objector by respondent no. 2-JD is collusive and has been executed to defeat the decree in favour of petitioner-DH. However, this question can be determined only after giving opportunity to the parties to lead evidence. Without recording evidence, aforesaid contention of DH cannot be accepted because claim of respondent no. 1-objector is that he is bonafide purchaser of the aforesaid land. Consequently opportunity has to be given to the objector to lead evidence in support of his aforesaid contention. In view of the aforesaid circumstances, there is no, perversity, illegality or jurisdictional error in impugned judgment of the lower appellate court so as to warrant interference by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The revision petition is completely meritless and is accordingly dismissed in limine.