

Devinder Kaur Vs. Brij Mohan

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Court : Punjab and Haryana

Decided On : Nov-26-2012

Appellant : Devinder Kaur

Respondent : Brij Mohan

Judgement :

Civil Revision No.7464 of 2011 -1- IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH Civil Revision No.7464 of 2011 Date of decision : November 26, 2012 Devinder Kaur Petitioner versus Brij Mohan Respondent
Coram: Hon'ble Mr.Justice L.N.Mittal Present : Mr.Sunil Agnihotri, Advocate, for the petitioner Mr.Y.P.Khullar, Advocate, for the respondent Respondent also in person.

L.N.Mittal, J.

(Oral) Order dated 25.7.2011, Annexure P/4 passed by the executing court is under challenge in this revision petition filed under Article 227 of the Constitution of India by Devinder Kaur widow and one of the legal representatives (LRs.of Ranjit Singh judgment debtor (JD) No.2.

Suit filed by respondent-plaintiff Brij Mohan stands decreed for possession of the suit property by specific performance of agreement to sell Civil Revision No.7464 of 2011 -2- by the trial court vide judgment dated 17.10.2006 Annexure P/1 upheld in fiRs.appeal vide judgment dated 14.8.2008 Annexure P/2.

Respondent- decree holder filed execution petition for execution of the decree.

LRs of J.No.2 Ranjit Singh filed objections claiming the suit property to be ancestral and their only house.

However, this plea was negatived by the trial court in judgment Annexure P/1, upheld by appellate court in judgment Annexure P/2.

Consequently, learned executing court has dismissed the objections of LRs of respondent No.2 vide order Annexure P/4 which is under challenge in this revision petition.

I have heard learned counsel for the parties and perused the case file.

Counsel for the petitioner prayed for another adjournment for appearance of petitioner in person for making efforts for amicable settlement.

I have carefully considered the aforesaid prayer but the same cannot be accepted in the facts and circumstances of the instant case.

Notice of motion was got issued by submitting that compromise is likely to be effected.

Accordingly, the case was referred to Mediation and Conciliation Centre functioning in this Court.

Respondent appeared before the Mediator but the petitioner did not appear before the Mediator on three dates of hearing and appeared there on one date of hearing only.

Mediation Civil Revision No.7464 of 2011 -3- proceedings, therefore, failed.

The case was sent back to the Court.

Thereafter again on 12.10.2012, counsel for the petitioner submitted that effort for amicable settlement may be made in the Court.

However, since the petitioner was not appearing before the Mediator although respondent was appearing in person before the Mediator, the petitioner was directed to deposit ` 10,000/- with the Registry of the Court in order to show her bonafide so that visit of the respondent in person for making efforts for amicable settlement may not prove futile again due to absence of the petitioner.

However, the petitioner has again repeated the same thing.

She has neither deposited the aforesaid amount nor she has appeared in person today although the respondent has again come present in person for making efforts for amicable settlement.

It is, thus, manifest that the petitioner is only gaining time and making fool not only of the respondent/decreed holder but also of the Court by seeking adjournments for the purpose of effecting amicable settlement.

The petitioner is not interested in effecting amicable settlement but is interested in only delaying the execution proceedings because there is interim stay in her favour in this revision petition.

The entire conduct of the petitioner is completely mala fide.

Accordingly, prayer for another adjournment for making efforts for amicable settlement is declined.

On merits of the revision petition, counsel for the petitioner Civil Revision No.7464 of 2011 -4- could not advance any meaningful argument to assail the impugned order of the executing court.

Even otherwise, the objection sought to be raised in the execution petition has already been dealt with and negatived in the suit.

Consequently, the same objection could not be raised in the execution proceedings again.

There is no infirmity much less perversity, illegality or jurisdictional error in impugned order of the executing court.

On the contrary, the execution which appears to have been filed on 15.12.2006 has already been delayed by almost 6 years by the judgment debt ORS. In view of aforesaid conduct of the petitioner, the revision petition deserves to be dismissed with exemplary costs.

Accordingly, the revision petition is dismissed with cost of ` 10,000/- to be paid by the petitioner to the respondent-decree holder.

The cost amount shall be recoverable in the execution proceedings in accordance with law.

(L.N.Mittal) November 26, 2012 Judge 'dalbir'

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