

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.3150 of 2004 (O&M)

Date of decision: 9.11.2009

Sarban Singh

.....petitioner

Versus

Dev Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amarjeet Markan, Advocate.
for the petitioner.

Mr. L.S.Bhangu, Advocate,
for the respondents.

SABINA, J.

Plaintiffs-respondents filed a suit for possession by way of specific performance of agreement to sell dated 4.1.1989 regarding land measuring 3 bighas 18 biswas comprised in khasra Nos. 305 min (2-9), 305 min (0-1), 310 min (0-3), 306 min (1-5) situated in the revenue estate of village Karkaur Tehsil Rajpura District Patiala on payment of Rs.25,150/- as balance sale consideration minus Rs.10,000/- already paid on 4.1.1989 and in the alternative suit for recovery of Rs.35,150/- along with interest. Suit of the plaintiffs was

decreed by the trial Court vide judgment and decree dated 27.11.1995. The said judgment and decree were upheld in appeal by the Additional District Judge, Patiala vide judgment and decree dated 13.10.1999. Thereafter, in execution proceedings, the sale deed was got executed by the Court through Local Commissioner. Vide the impugned order dated 11.6.2004, objections filed against the issuance of warrants of physical possession of the suit land were dismissed. Hence, the present revision petition has been filed under Article 227 of the Constitution of India by judgment debtor No.2.

Learned counsel for the petitioner has submitted that only symbolic possession could have been granted to the decree holders as the vendor was a co-sharer in the suit property. The sale of specific khasra numbers would only mean sale of share of the vendor.

Learned counsel for the respondents, on the other hand, has submitted that the suit for specific performance of agreement to sell was filed by the plaintiffs-decree holders and the same was decreed qua specific khasra numbers. Hence, the objection petition had been rightly dismissed.

After hearing learned counsel for the parties, I am of the opinion that there is no ground for interference by this Court and the present petition deserves dismissal.

The suit filed by the plaintiffs for possession by way of

specific performance of agreement to sell was decreed and the said judgment and decree were maintained by the Appellate Court in appeal. Learned counsel for the petitioner has failed to show that the suit land was jointly owned by the vendor with other co-sharers. In these circumstances, the decree passed by the Court had to be implemented in its letter and spirit and hence, actual possession regarding the specific khasra numbers sold by the vendor to the plaintiffs had to be granted. Learned counsel for the petitioner has also failed to make out a case that only symbolic possession was liable to be delivered to the decree-holders.

Hence, the impugned order does not suffer from any material irregularity and illegality warranting interference by this Court.

Accordingly, this petition is dismissed.

**(SABINA)
JUDGE**

November 09, 2009
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