

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7363 of 2014

Date of decision: October 30, 2014.

Ravindra Kumari etc.

... **Petitioners**

v.

Nirmala Devi and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Raman Mohinder Sharma, Advocate, for the petitioners.

Dr. Bharat Bhushan Parsoon, J. (Oral):

Dismissal of objection petition under Order XXI Rule 58 CPC preferred by the petitioners/applicants in execution of the decree dated 9.5.2012 by the executing court as also by the first appellate court on 9.7.2014 (Annexure P-5) and 22.9.2014 (Annexure P-6) respectively, form the genesis of the revision petition.

2. At the outset, Counsel for the petitioners/applicants/objectors has urged that objections being under Order XXI Rule 58 CPC preferred by them, were required to be decided only after framing of issues and on giving opportunity to the parties to lead their evidence and could not have been dismissed summarily. Support has been sought from Pohlo Ram Sharma and others v. Narinder Singh Randhwara and others, 2008(1) RCR(Civil) 442, Sanjeev Kumar Kapil v. Jai Krishan Kaushal, 2009(1) RCR (Civil) 107 and Avtar Singh v. Gurjeet Kaur, 1997(1) RCR (Civil) 6.

3. If we go through the objection petition (Annexure P-1) preferred by applicants/objectors, it becomes evident that the said petition

has been preferred merely to delay and dilate the proceedings as not only averments in the objection petition are vague, fluid and non-clinching but even no supporting material or revenue documents had been placed on record. The executing court cannot be expected to follow only one track in deciding objections frivolously and vexatiously made though under the title and nomenclature of Order XXI Rule 58 CPC even when it clearly appears from the facts mentioned in the objection petition that there are no issues or material aspects to be adjudicated upon.

4. It is worth notice that to substantiate their claim, applicant/objectors were required to clearly and transparently put forth their objections supported by revenue documents but nothing of such sort was done. The property in attachment, which has been put to sale in terms of Order XXI Rule 66 CPC, is clearly identifiable as boundaries on all sides with detailed description has been given in the execution petition and no objection was raised ever when the same was put under attachment.

5. It is interesting to note that the applicants/objectors did not deny right, title and interest of the JD in the land under sale but have raised dispute only regarding quantum of share of respective land owners therein. There are many factors which are so apparent and clear going to show that the applicant/objectors are hand-in-glove with the JD and are fighting a common cause to thwart execution of the decree against the JD. The following points are noteworthy:-

- i) Execution proceedings being conducted before the executing court reveal that the JD himself is playing truant and having not appeared since long, has already been proceeded against ex-parte;
- ii) The applicant/objectors trace their title to the property under sale through one Piare Lal whose right, title and interest in the land under sale has not been proved even in whispers;

- iii) The applicants/objectors in their objection petition have hidden more and revealed less. They have rather made no mention about their right, title and interest. They have only stated that JD Ravinder Kumar has only 1/56th share in the land without even explaining this plea any further;
- iv) The applicants/objectors have not been able to establish from any revenue documents any connection of theirs with the land under sale;
- v) The applicants/objectors are not strangers but are real sisters of JD Ravinder Kumar;
- vi) Counsel who was earlier representing the JD, after JD having been proceeded ex-parte, now is holding the brief of the applicant/objectors;
- vii) When the objection petition was preferred by the applicant/objectors before being proceeded ex-parte, the JD on the same day had made a statement that he was not file any objections in his own right, clearly showing that applicant/objectors henceforth were holding the forte for the JD; and,
- viii) Revenue documents in favour of Jethu Ram also do not help the applicant/objectors as neither death certificate of Jethu Ram has been placed on the record nor any connection of the land under sale has been established with the applicant/objectors.

6. Death certificate of Piare Lal was attached with the first appeal showing therein that he had expired on 5.5.1990 but how the applicant/objectors had any title in the land, has not been mentioned; not even right, title and interest of Piare Lal had been disclosed.

7. It is further worth notice that on the same grounds, objections preferred by the JD have already been dismissed and it is the second innings which the applicant/objectors are apparently playing for and on behalf of JD in disguise.

8. In the given circumstances, the first appellate court in its order

dated 22.9.2014 was right in referring to Bikram Singh v. Surjit Singh and others, 2004(4) RCR (Civil) 422, to the effect that there is no vested right of the objector that the executing court must frame issues for deciding their objections. Following observations of the executing court are noteworthy and with approval, are reproduced as below:-

“... The learned lower court has rightly declined the objections. Further it has been held by the Hon'ble High Court in judgment Bikram Singh versus Surjit and others 2004(4) RCR (Civil) 422 that the objector has no vested right that executing court must frame issues. It is the duty of the executing court to execute the decree and merely because frivolous and vexatious objections are filed with a view to delay and defeat the execution of the decree, it is not necessary that the court must frame issues and grant opportunity to the parties to lead evidence, that will defeat the very purpose of the statute.”

9. In view of the concurrent findings of the executing court as well as of the appellate court and there being no illegality, irregularity or mis-appreciation of facts or evidence, there is no ground to interfere. The revision petition is accordingly dismissed.

October 30, 2014.
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[Dr. Bharat Bhushan Parsoon]
Judge

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?