



132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA-8-2024 (O&M)

Date of decision : 20.05.2025

Sukhdev Singh

...Appellant

Vs.

Anita Rani and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Gupta, Advocate
Ms. Jasmeen, Advocate
Ms., Ruchi, Advocate
Ms. Ashmeen, Advocate
Ms. Gurmeet Kaur, Advocate and
Ms. Simranjyot Kaur, Advocate
for the appellant.

Mr. Ramandeep Singh, Advocate
for the respondents.

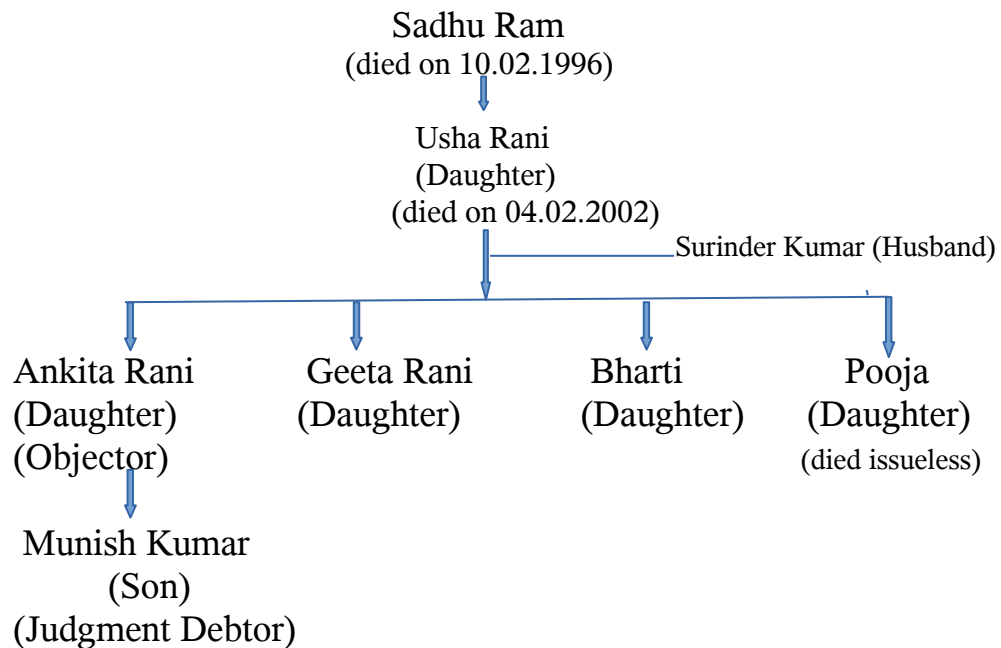
ANIL KSHETARPAL, J. (Oral)

I Brief facts:-

1. The appellant before this Court is holder of a decree for specific performance of the agreement to sell against the Judgment Debtor-Sh. Munish Kumar. Third party objections were filed by Smt. Anita, mother of Sh. Munish Kumar, claiming that Sh. Munish Kumar was not the owner of the property. The Executing Court without granting an opportunity to the decree-holder to prove his stand, dismissed the execution petition, which in appeal has been affirmed by the Appellate Court.



2. At this stage, the following genealogy will illustrate the relationship between the parties:-



3. The decree-holder claims that Sh. Munish Kumar was adopted by Sh. Surinder Kumar and Smt. Usha Rani, hence, he inherited the property of Sh. Usha Rani, whereas, the objector disputes that fact. In these circumstances, the Executing Court was expected to frame the issues and call upon the parties to lead evidence, however, the Courts have proceeded to allow the objections.

II Arguments addressed:-

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

5. Learned counsel representing the appellant submits that in absence of opportunity to the decree-holder to prove his assertions, the Court erred in dismissing the execution petition. He further contends that partition between the family members had taken place and the suit property fell to the share of Sh. Munish Kumar.



6. On the other hand, Learned counsel representing the respondents submits that no document has been produced by the decree-holder to prove that Sh. Munish Kumar was adopted by Sh. Surinder Kumar and Smt. Usha Rani.

III Analysis and Discussion:-

7. This Court has considered the submissions made by the learned counsel representing the parties.

8. Third party objections are required to be decided like a suit. In this case, triable issues arose. Hence, the Court was required to cull out the issues and permit the parties to lead evidence.

9. Consequently, the impugned orders passed by the Executing Court which in appeal have been affirmed by the Appellate Court are set aside while remitting the matter back to the Executing Court for fresh decision.

IV Decision:-

10. The parties through their learned counsel are directed to appear before the First Appellate Court on 04.07.2025.

11. The appeal is disposed of.

12. All the pending miscellaneous applications, if any, are also disposed of.

20.05.2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No