



In the High Court of Punjab and Haryana, at Chandigarh

Execution Second Appeal No. 3 of 2019 (O&M)

Date of Decision: 11.03.2025

Uma Bedi

... Petitioner(s)

Versus

Dharamwati and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Kunal Dawar Mr. Vipul Sharma and
Mr. Sourav Bajaj, Advocates, for the appellant(s).

Mr. Lalit K. Gupta, Advocate
for the respondent.

Anil Kshetarpal, J.

1. This Execution Second Appeal filed by a third party objector to assail the correctness of the concurrent orders passed by the Executing Court, which, in appeal, was affirmed by the First Appellate Authority while dismissing her objection petition.

2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed. One Dharam Singh Nahata was allotted the suit property by the Housing Board, Faridabad on 23.10.1989. He executed a general power of attorney in favour of Smt.Ratna, the second wife of Kailash Chand. It appears that Dharam Chand Nahata also executed an agreement to sell in favour of Kailash Chand on the same day i.e. 20.09.1991. Subsequently, Smt. Ratna, on the strength of the general power of attorney executed by Dharam Chand Nahata, executed the

sale deed in favour of her son Roopak on 29.10.2004. Subsequently, on 15.02.2005, Roopak executed the sale deed in favour of Smt. Ratna. Thus, Smt. Ratna became owner of the property. She further sold the property vide registered sale deed dated 27.06.2006 in favour of Poonam, who, in turn, further sold the property in favour of Satish Kumar Juneja vide sale deed dated 27.10.2006.

3. Satish Kumar Juneja further executed a sale deed in favour of the appellant on 11.11.2011. Smt. Dharamwati and Manoj Kumar, claiming to be the first wife and son of Kailash Chand, filed a suit on 05.03.2010 for specific performance of the agreement to sell dated 20.09.1991. In the aforesaid suit, the following defendants were impleaded:-

- I. Dharam Chand Nahata/Original Allottee
- II. Roopak S/o Lt. Sh. Kailash Chand
- III. Ms. Kaveri D/o Lt. Sh. Kailash Chand
- IV. Mrs. Ratna W/o Lt. Sh. Kailash Chand (second wife)

4. The suit was decreed on 05.12.2015. Smt. Dharamwati filed an execution petition in which the appellant filed an objection petition.

4. Both the Courts below have dismissed the appellant's objection petition on the ground that the sale deed executed in her favour is governed by the Rule of *lis pendens*. However, both the Courts below have overlooked the fact that the appellant is deriving title from Smt. Ratna and thereafter, from Poonam, who became owner of the property by virtue of sale deeds executed in the year 2006. Neither Poonam nor Satish Kumar Juneja nor the appellant were made party to the suit. Even the Housing Board, Faridabad, was not made party to the suit. The judgment and decree passed in the suit

for specific performance operates against the defendants and not against the entire world. It is a judgment in *personam* and not in *rem*.

5. Keeping in view the aforesaid discussion, the present appeal is allowed and the orders passed by both the Courts below are set aside. The decree holder, namely Smt. Dharamwati and Manoj may, if so advised, file a separate suit for declaration that the sale deeds executed on 27.06.2006, 27.10.2006 and 11.11.2011 in favour of Poonam, Satish Kumar Juneja and the appellant are not binding on their rights.

6. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 11, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No