
(2001) 10 JH CK 0011
In the Jharkhand High Court
Case No : Civil Revision No. 2 of 1999

Pratibha Singh and Another	Vs	APPELLANT
Shanti Devi Prasad and Another		RESPONDENT

Date of Decision : 08-10-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 29, Order 47 Rule 1, 47, 82
Specific Relief Act, 1963 — Section 28

Citation : (2001) 10 JH CK 0011

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : P.K. Sinha and V.P. Singh, for the Appellant; N.K. Prasad and Manjul Prasad, for the Respondent

Final Decision : Dismissed

Judgement

Gurusharan Sharma, J.—Judgment debtors are petitioners. Title Suit No. 125 of 1981 was filed for specific performance of agreement for sale dated 20.11.1978/4.9.1979. which was decreed on 18.10.1982. Lastly the said decree was confirmed by the apex Court on 23.11.1995.

2. Decree-holders filed Execution Case No. 1 of 1983-A for execution of the decree aforesaid. On 2.3.1996 decree holders deposited the balance amount of consideration of Rs. 37001/- by Challan No. 667.

3. Instead of withdrawing the said amount and executing sale deed, in terms of decree, judgment debtors filed Misc. Case Nos. 1. 2 and 6 of 1997 in the said execution case, respectively (i) under Order 47 of the CPC to review order dated 15.3.1997. whereby their objection u/s 47 of the CPC was rejected (ii) u/s 28 of the Specific Relief Act and (iii) under Order 21 Rule 29 of the Code, which were dismissed on 21.4.1998.

4. Judgment debtors thereafter challenging the said order filed C.R. Nos. 222. 223 and 224 of 1998 (R) in this Court. Civil Revision No. 222 of 1998(R) was

dismissed as withdrawn on 27.1.1999. where as Civil Revision Nos. 223 and 224 of 1998(R) were dismissed on merit on the same day.

5. However, on 16.9.1998 judgment debtors filed petition for a direction to the decree holder to serve a copy of draft sale deed. Decree holders filed deed typed on stamped paper in Court, draft whereof was already approved by the Court.

6. In the meantime, Judgment debtors had also filed Misc. Case Nos. 9, 14 and 20 of 1998, under Order 47 Rules 1 and 151 of the Code to review order dated 21.4.1998 dismissing Misc. Case Nos. 1, 2 and 6 of 1997 as also order dated 26.5.1998 on their petitions dated 1.5.1998 and 25.5.1998, which were dismissed on 22.9.1998 and Judgment debtors were directed to receive balance consideration amount, which was already deposited by the decree-holders in Court and to execute the sale deed.

7. On 2.11.1998, 4.11.1998 and 6.11.1998 judgment debtors filed a petitions and prayed that copy of approved sale deed and the sale deed typed on stamped paper may be given to them, which were considered and rejected by impugned order dated 13.11.1998.

8. The judgment debtors neither produced any order of stay of said order dated 21.4.1998 nor executed the sale deed. Draft sale deed after scrutiny by Siristedar was duly approved on 8.7.1998. The Judgment debtors did not even express their willingness to execute the sale deed. In such circumstance, the executing Court observed that decree holder was not liable to serve either copy of draft of proposed sale deed or approved draft sale deed to them and it was Court's duty to examine and find out whether the deed of sale was prepared in accordance with fence or not.

9. In the petition dated 6.11.1998, judgment debtors also alleged that in the original execution petition only Rs. 28000/-was mentioned as the balance consideration amount to be paid and subsequently Rs. 9001/-was added thereto. The executing Court in the impugned order observed that detailed orders in this regard was already passed on 15.3.1997 and that it was not correct to say that in the execution petition besides Rs. 28000/-, subsequently Rs. 9001 /- was added in 1997, as the decree holders had already deposited Rs. 37001/- on 2.3.1996.

10. The office clerk was directed to present the approved sale deed duly typed on stamp paper with map before the Registrar, registration Office, Ranchi for registration and judgment debtors were directed to receive the balance consideration amount of Rs. 37001/ , lying in deposit in Court.

11. Judgment-debtors petitioners have challenged the impugned order on the ground that instead of taking suitable action against decree holders-opposite parties for committing forgery and tampering, whereby Rs. 9001/-was added to the figure of Rs. 28000/- in the execution petition subsequently and the Court's record was altered, the executing Court rejected the prayer and held that it was

not correct to say that the said figure of Rs. 9001/- was added subsequently in the year 1997.

12. Petitioners' counsel also submitted that their prayer for giving copy of draft sale deed and sketch map before approving it for execution of sale deed was wrongly rejected by the executing Court.

13. Judgment debtors-petitioners have challenged the impugned order on the ground that instead of taking suitable action against decree holders-opposite parties for committing forgery and tampering, whereby Rs. 9001/- was added to the figure of Rs. 28000/- in the execution petition subsequently and the Court's record was altered, the executing Court rejected the prayer and held that it was not correct to say that the said figure of Rs. 9001/- was added subsequently in the year 1997.

14. Admitted position was that on 2.3.1996 the decree holders deposited Rs. 37001/-, the balance amount of consideration and filed draft sale deed, which was approved by Court on 8.7.1998 and thereafter on failure of the judgment debtors to execute the said sale deed. Court rightly directed the office clerk to present the sale deed before the Registrar for registration and on 23.12.1998 the sale deed was duly executed by the Court.

15. This Court by order 27.1.1999, passed in C.R. Nos. 223 and 224 of 1998(R) had already directed the executing Court to take every step in the matter so that possession of the suit land must be delivered to the decree holder at the earliest.

16. In the aforesaid circumstance, I find no reason to interfere with the impugned order dated 13.11.1998. This revision application is, accordingly, dismissed, but without costs. Interim order of stay of further proceedings in Execution Case No. 1 of 1983-A dated 27.6.2000 stands vacated. Lower Court records may be sent down forthwith.

17. Revision dismissed.