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In The Court of Sub Judge.
Sonpur (Saran).
Execution Case 2/2022

31/10/25 Meena Devi Vs. Kanchhal kr Singh others.

Barani of both sides filed. Heard on petition dated 02/10/25 filed by Judgement debtor (JA). The petitioner stated that execution case as filed by decree holder is not maintainable. That decree holder 1, 2, 3 have no legal right to file execution case. because they are not decree holder. That judgement and decree prepared in T.S. 139/92, on that basis the D.H. has not right to bring execution case, because D.H. 4 to 6 have not mentioned about dispossession in original suit. Hence legal D.H. are not entitled to bring Execution Case. That on perusal of T.S. 139/1992 it transpires that in entire judgement and decree, D.H. has not sought

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Execution 02/25

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31/10/25

relief of recovery of possession. That J.D (Judgement debtor) has purchased disputed land through registered sale deed on dated 12/02/2017 and they are in right title and possession. That decree holder 1 to 3 are purchaser of disputed land and decree holder 4 to 6 mentioned in his sale deed & that decree holder 1 to 3 has got possession on disputed land. Hence they have no right to file execution case. That J.D are in peaceful possession since date of purchase. Hence decree holder (D.H). 1 to 3 has no right to file this execution case. That decree holder ~~by~~ to got judgement and decree in T.S. No. 139/92 in keeping in dark of the court. Hence execution case is legally illegal.

Heard both sides on

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petition and perused record. On perusal of record it transpires that decree is prepared in T.S. 139/92 that if the plaintiff is dispossessed during the trial of suit from any part of the disputed that land then plaintiff provided recovery of possession. through process of law. Hence statement of Judgement debtor that no relief of recovery of possession is sought by decree holders became false. Further J.D. opposed that D.H. 1, 2 & 3 are purchaser of disputed land from D.H. 3, 4 & 5 and D.H. 1, 2 & 3 are not party in Original T.S. 139/92. hence they have no right to file the execution case against the J.D. On this objection Order 21 Rule 16 of CPC clear that "where a decree is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the

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31/10/25 decree to the court which passed it, and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree holder". Hence provision clears that D.H. 1, 2 & 3 are entitled to bring execution case. In this execution case purchaser of the decreed property with decree right and original decree holder 4, 5 & 6 all are party and they jointly filed this execution case. That all other objections raised by judgment debtor (J.D.) are settled in suit. That J.D. has filed appeal no 71/1998, which was also dismissed in default. Hence objections filed by Judgment debtor is not maintainable and hence D.H. are directed to proceed in this case. Not date _____ for further proceeding.

Mamish
Sub Judge - I
Sonepur
(Sarang)