

CR No. 1481 of 2011 (O/M)
Date of decision : 10.8.2015

..... Revisionist

Abdul Hamid and others

..... Respondents

Present:- Mr. Adarsh Jain, Advocate, for the revisionist.
Mr. Lokesh Sinhal, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH, J. (ORAL)

This revision is filed against the order dated 16.10.2010, passed by the learned Civil Judge (Junior Division), Palwal, vide which the application of the decree-holder (present revisionist) under Order 21 Rule 32 read with Section 151 of Code of Civil Procedure (in short 'CPC') for restoration of possession of the suit property to the decree-holder from the judgment-debtors and for taking necessary action against the judgment-debtors was dismissed.

The brief facts of the case are that the judgment and decree was passed in favour of plaintiff on 14.3.2000. In pursuance to the execution filed by the present revisionist, the possession was delivered on 7.1.2009 with the help of police. The plea of the learned counsel for revisionist before the lower Court was that on

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intervening night of 30/31.7.2010, he has again been dis-possessed and that the possession should again be delivered back to him through execution of said decree dated 14.3.2000. The said plea was declined by the learned Civil Judge (JD), Palwal, vide order dated 16.10.2010. This is how the present revision was filed by the present revisionist before this Court.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the revisionist has argued that once the decree is passed, it remains in force for all the times to come and that in case, he is again dis-possessed, the remedy lies in re-delivery of the possession under Section 151 CPC. Learned counsel relies upon the authority of this Court in Harbans Singh Versus Daulat Ram, 1993 (2) PLR 399. A perusal of the said authority shows that in that case, it was decree of injunction, which was violated. In the present case, the decree was for possession and the possession was delivered and the decree-holder was again deprived of the possession after one year and six months. Once the decree in possession has been satisfied and the plaintiff has again been deprived of the possession after a considerable time, the remedy lies in seeking appropriate relief by filing suit for possession and the powers under Section 151 CPC cannot be exercised where a specific remedy is available. In this regard, I am supported by the

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authority of the Apex Court in Shew Bux Mohata and another Versus Bengal Breweries Ltd. and others, AIR 1961 Supreme Court 137 (V 48 C 18). Consequently, there is no illegality in the impugned order.

In view of the above, the present revision is dismissed.

(KULDIP SINGH)
JUDGE

10.8.2015
sjks