

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.142 of 2015 (O&M)
Decided on:-9.1.2015.

Tarsem Raj and anotherPetitioners.

Versus

Bhola Ram and othersRespondents.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

Present:- Mr. Raj Kumar Garg, Advocate
for the petitioners.

Dr. Bharat Bhushan Parsoon, J (Oral)

In execution petition under Order XXI Rule 32 CPC being prosecuted by the decree-holders/plaintiffs, petitioners herein, pursuant to filing of an objection petition under Order XXI Rule 58 CPC by a third party, the Executing Court has called upon the third party to establish its credentials as bonafide purchasers in possession. Demarcation report has also been called from a revenue official to establish the identity of the suit property regarding which ownership has been claimed by the objectors. Decree-holders, petitioners herein, are aggrieved of this order.

2. No notice to the opposite side is being issued to avoid delay and further because no prejudice would be caused to the other party.

3. Objection petition under Order XXI Rule 58 CPC is to be tried like a suit and cannot be dealt with summarily. Once objectors have come

forward with a definite plea of being purchasers by bonafide sale in their favour and are claiming to be in established possession, it was incumbent on the court to provide them an opportunity to prove their assertions wherein right of cross-examining the witnesses of the objectors, is undisputedly available to the petitioners/decreed-holders. It is understandable as to why the decree-holders felt tremorised by the well-written and elaborately explained order and also in view of the ambit and scope of provisions of Order XXI Rule 58 CPC providing for an opportunity to such objector to prove its case. The present petition is nothing but misuser of the process of the Court.

4. Keeping in view the totality of facts and circumstances as mentioned earlier, no ground to interfere with the impugned order dated 2.12.2014 of the lower court is made out. Sequelly, affirming the same, this petition, being devoid of any merit, is dismissed.

(Dr. Bharat Bhushan Parsoon)
Judge

January 09, 2015

'Yag Dutt'

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes