

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of decision:06.01.2015

HUDA and another

.....Petitioners

v.

Prabhu Dayal

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Ajay Kumar Kansal,Advocate for the petitioners

Jaswant Singh,J.(Oral)

Judgment Debtor/Haryana Urban Development Authority (HUDA) is in revision under Article 227 of the Constitution aggrieved by the order dated 11.11.2014 (P-10) passed by the learned Executing Court whereby their objections to the execution of decree dated 8.9.2012 have been dismissed.

Learned counsel for the petitioners has argued that Decree Holder has played a fraud upon the Court by concealing the exact area owned by his father which was acquired by HUDA and on which the pleadings in the suit were filed and decreed.

Having heard learned counsel for the petitioners, this Court finds no ground to interfere with the impugned order. The factual matrix sought to be asserted here should have been part of the defence to be taken before the trial court and once the decree has been passed and upheld by the learned Appellate Court, the approach of the learned

Executing Court by faithfully proceeding to execute the decree cannot be faulted with as it is settled law that the Executing Court cannot go beyond the decree. Factual position of the fraud has to be taken/pleaded and established in appropriate proceedings.

In view of the above, present revision petition is dismissed with costs of Rs.10,000/- to be deposited with District Legal Service Authority, Gurgaon.

06.01.2015
joshi

(Jaswant Singh)
Judge