

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2961 of 2015 (O&M)
Date of decision: 1.5.2015

Hazari and others

.. Petitioners

v.

Jagdish Kumar and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vikram Sheoran, Advocate for the petitioners.

...

Rajesh Bindal J.

The judgment-debtors are before this court impugning the order dated 20.3.2015, passed by the learned executing court, whereby the objections filed by them in execution of the decree dated 25.7.2011, were dismissed.

It is a case in which a suit for damages filed by the respondents was decreed by the trial court on 25.7.2011 for ₹ 50,000/- on account of damage to the crop sown by them. The judgment and decree of the trial court was upheld in appeal. It was during execution of the aforesaid decree that a plea was sought to be taken by the petitioners-judgment debtors that in another litigation, the decree holders in the case in hand were not found to be owners of the land, on which crop was allegedly sown, hence, they were not entitled to the compensation as awarded.

After hearing learned counsel for the petitioners, I do not find any reason to interfere with the impugned order. The suit for damages was decreed against the petitioners on 25.7.2011. The judgment and decree was upheld by the lower appellate court on 25.3.2014. The judgment in another case, which is sought to be referred to by the petitioners to claim that the

decree holders were not found to be owner of the property is dated 26.9.2011 by the trial court and dated 4.7.2013 by the first appellate court. Despite this fact, the plea was not even raised before the first appellate court in appeal filed by the petitioners against the judgment and decree of the trial court, which was dismissed on 25.3.2014. Not only this, the judgment and decree of the lower appellate court was not challenged any further despite this fact being in notice of the petitioners, as this plea was sought to be taken in the objections filed in August, 2014. It is settled that the executing court cannot go beyond the decree. By raising the objections, jurisdiction of the court is not sought to be challenged, rather the judgment on merits is sought to be assailed, which cannot be permitted. The executing court has rightly observed in the impugned order that damages were granted to the decree holders on account of damage to the crops sown on the land in their possession. Ownership was not an issue.

For the reasons mentioned above, I do not find any merit in the present petition. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

1.5.2015
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