

CR No. 3063 of 2014 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3063 of 2014 (O&M)
Date of decision : December 10, 2015

Daljeet Singh

..... Petitioner

Versus

Ravinder Kaur and others

..... Respondents

CR No. 3849 of 2014 (O&M)

Daljeet Singh

..... Appellants

Versus

Ravinder Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amandeep Saini, Advocate
for the petitioner.

Mr. Gaurav Chopra, Advocate
for respondent No.1 to 3.

Mr. Manoj Kumar Pundhir, Advocate
Mr. Ashok Kumar Arora, Advocate
for respondent No.8-M.C.

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

Amit Rawal, J (oral).
CM No.26220-CII of 2015

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This is an application for placing on record photocopy of judgment and decree dated 31.10.2015.

The application is allowed.

Copy of the judgment taken on record.

CM No. 12822-CII of 2015

This is an application for placing on record Annexures R-1 to R-6.

The application is allowed.

Annexures R-1 to R-6 taken on record.

CR No. 3063 and 3849 of 2014 (O&M)

This order of mine shall dispose of two civil revisions bearing CR No._3063 and 3849 of 2014.

The petitioner is a third party objector in execution application whereby decree dated 08.1.1996 has been sought to be executed.

Learned counsel for the petitioner-objector submits that under the garb of judgment and decree, the decree holder had not impleaded the effected party who has raised construction of the shop on the land for which the decree has been passed and in execution of the decree his possession is taken, accordingly objection petition had been filed which, has summarily been dismissed as it required to be adjudicated as per procedure prescribed under Order 21 Rule 101 CPC not in a summary manner.

Notice of this revision had been issued and there is interim order in favour of the petitioner-objector. In my view, the

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petitioner-objector has wrongly invoked the provisions of Order 21 Rule 58 CPC by filing objections whereas it should have been filed under Order 21 Rule 99. Consequently, the procedure for trying the objections is prescribed was required to be filed under Order 21 Rule 101. As per Order 21 Rule 103 and 104 it has been statutorily provided that the dismissal of the objections would be a decree and against the decree, appeal would lie before the first appellate court which in the eyes of law could have been entertained.

Keeping in view the aforementioned facts, I am of the view that the petitioner-objector is required to file an appeal before the lower appellate court.

Accordingly the petitioner is relegated to file an appeal before the lower appellate court against the dismissal of objection along with an application seeking interim stay. Till the decision of the application of interim stay, the interim order dated 15.5.2014 passed by this Court shall remain in force.

The petitioner shall be entitled to seek condonation of delay by invoking Section 14 of the Limitation Act, 1963.

With the aforementioned observations, Civil revision No.3063 of 2014 stands disposed of.

Learned counsel for the petitioner submits that he shall be filing an appeal within 30 days from the date of receipt of certified copy of this order.

It is expected that the lower appellate court shall decide the appeal uninfluenced by the findings rendered by the executing court while dismissing the objections filed by the judgment

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debtor.

Civil Revision No. 3849 of 2014 has arisen against the order passed by the executing Court dismissing the application for appointment of Local Commissioner for demarcation, I am of the view that petitioner-objector will be at liberty to seek indulgence of the court for adjudication of *lis* between the parties by moving appropriate application in accordance with law within a period of 30 days from the date of receipt of certified copy of this order.

Civil revision No.3849 of 2014 also stands disposed of.

(AMIT RAWAL)
JUDGE

December 10, 2015
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