

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

Civil Revision No.3566 of 2015 (O&M)

Date of decision: 21.05.2015

Jagpal Singh

.... Petitioner

versus

Smt. Laxmi Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Gurcharan Singh Gandhi, Advocate,
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The orders in execution by the Executing Court delivering possession is the subject of objection through a revision by the judgment debtor. It is a suit for specific performance that has been decreed, it is stated that the judgment is still assailed before this court and the case is pending. The learned counsel admits that there is no stay of execution ordered by this court and the execution is being levied by the decree holder for enforcement after having secured a sale deed through court.

2. The court has passed two orders, one order regarding the fact that the defendant-judgment debtor had no objection if the delivery was taken subsequent to the harvest of crops. The court has observed that the crops have been already harvested and there cannot therefore be an objection for delivery. The second order has been passed regarding the objection of the judgment debtor that there was an issue of limitation which has to be considered and would also contend that the trial Court had not properly decided the matter while it granted the decree and the execution was not justified. The Executing Court has stated the objection as frivolous which in my view is a correct characterization of the objection taken by the judgment debtor and has allowed for possession to be delivered. The learned counsel for the petitioner states that the so-called admission of the judgment debtor that the property could be delivered possession after the crops are harvested was made by the counsel without his authority by filing the objections using up the signatures given to his counsel at the time of his engagement. It is the further contention that the decree itself could not have been passed and the plaintiff had not even been examined him and such a decree cannot be taken to be a validly obtained decree that he has a good case to prosecute in appeal.

3. I find the contentions raised to be untenable. A party cannot disown his own admission in court records by a fanciful plea

that the counsel took his signatures in some papers and had given the statement that he will deliver possession of the property after harvest. If he has grievance about his counsel, he may wash his dirty linen before the authority who would be competent to take disciplinary action against the counsel for doing an act against the interest of his own party. The court cannot be made to join issues on professional ethics of what is complained of between the party or his own counsel. Even an objection that he had not given such a statement ought to make really no difference, for, if there was a decree for specific performance and there is no order of this court staying the execution, the decree holder must have the benefit of realizing all benefits of his decree. We must push for an agenda that would make unnecessary for a decree to even apply to a court for execution. A stage must soon arrive that a court that passes a decree takes upon itself a solemn duty to see that the decree is executed through a seamless procedure and not allowing for parties to scuttle lawful decrees by endless litigation. It has been the experience in our courts that a decree never is a denouement for conclusion of proceeding. An execution petition is really commencement of the litigation that goes on for decades. If a judgment debtor believes in preferring an appeal to this court, the trial Court will bring the curtains down against the judgment debtor, the judgment debtor was purely under delusion. The trial Court was, therefore, perfectly

justified in allowing for further process in execution to take place and allowed the decree holder to take possession of the property.

4. None of the objections stated by the counsel offer scope for any serious consideration worthy of acceptance. I reject them as frivolous and dismiss the revision petition.

(K.KANNAN)
JUDGE

21.05.2015
sanjeev