

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

Civil Revision No.4101 of 2005 (O&M)

Date of decision: **14**.09.2015

Anita Rani alias Rajji

... Petitioner

versus

Dayawanti and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. S.K.S. Bedi, Advocate,
for the petitioner.

Mr. P.L. Singla, Advocate,
for the respondents.

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.

1. This order must be taken as continuation of the order already passed on 12.08.2015. After narrating the facts and isolating the point for adjudication, I had sought the assistance of the counsel to inform whether the decree that was already passed in Civil Suit No.129 of 1970 on the basis of which the third-party objection was being brought against the execution of the decree obtained by the decree holder, there had been any reference to the fact that the decree holder in Civil Suit No.129 of 1970 restricted the claim only

to 2 rooms. Mohan Lal, the person under whom the present objectors are causing obstruction at all times contended that the property was situated in door No.8/12 and that he was entitled to half the portion. In the plan appended along with the suit, there was a graphic picture of the plaintiff confining his relief only to a red marked portion that was comprised of one room and one verandah. As a matter of fact when Mohan Lal had taken delivery of the property, Kedarnath under whom the present decree holders claim had applied for the delivery of the property complaining that the decree holder had taken possession of a larger portion than what the decree provided for. In the reply given by Mohan Lal, it was clearly admitted by him that he was interested in taking possession of 2 rooms referred to in the decree and the additional 3 rooms had been in the possession of Raj Kumar. I've already pointed out in the earlier order to the fact that the said Raj Kumar was the Mohan Lal's brother's son-in-law. It was against this Raj Kumar that the present plaintiffs had filed the suit and obtained a decree. When the plaintiffs were executing the decree, they were laying claim only to the property which Mohan Lal had himself disclaimed.

2. The learned counsel appearing on behalf of the petitioner rests the whole case on the fact that in the earlier proceedings initiated in Civil Suit No.129 of 1970, the court had already held that there was no property like door No. 8/13/1. The

suit and decree obtained with reference to the same and which was allotted to the present plaintiffs' predecessor was with reference to property which never existed. I have seen through the judgement obtained in the instant suit and find that the plaintiffs have even explained that the reference to door No.8/13/1 was itself a mistake and the plaintiffs were claiming only with respect to the property which was south of 8/12 and North of 8/13. The reference to 8/13/1 must therefore mean one in the property immediately south of 8/12. I do not think we need to detain ourselves on the particular door number, for, the identity of the property is very clearly manifest by two factors: one, when the Kedarnath, the predecessor of the present decree holders were applying for the delivery of the property complaining that Mohan Lal taken delivery of excess property, it came out clearly that Mohan Lal was not interested in any property other than the 2 rooms which were clearly demarcated in the plaint plan submitted along with Civil Suit No.129 of 1970. Two, there is no merit in raising the dispute again with reference to the property which the decree holders have obtained after a full-fledged contest from the judgement debtor. The objection which is now taken by the third-party objectors literally reopens an issue of what was already taken at the time when Mohan Lal was applying for execution of the decree in Civil Suit No.129 of 1970. The court below which is executing the decree has correctly dealt with the issue and I find no

error for intervention in the civil revision.

3. The civil revision petition is dismissed with costs assessed at ₹3,500/-.

(K.KANNAN)
JUDGE

14.09.2015
sanjeev