

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

Civil Revision No.4551 of 2014 (O&M)

Date of decision: 28.07.2015

State of Punjab and another

... Petitioners

versus

Shivala Atma Ram and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Vandana Malhotra, Additional Advocate General,
Punjab.

Mr. Ashish Grover, Advocate,
for the respondents.

K.Kannan, J. (*Oral*)

1. It is not possible for me to reconcile the judgment contained in para 10 of the appellate court allowing for the State to have the road adjoining the Shiva Mandir and situate near Khanna to Khanna Khurd and at the same time, a decree to be granted against the State from in any manner cutting any road or a street through the total land measuring 12 kanals 2 marlas. If the State can maintain the road as found in para 10 of the judgment, the construction of such a road or its maintenance cannot constitute any contempt of court order for allowing for the plaintiff to complain that there has been any violation of the decree granted by the appellate Court. It is axiomatic that a decree follows a judgment and not vice-versa. The

act done by the State in purported exercise of what the judgment recognizes at para 10 cannot be construed as violation of the order.

2. The impugned order is set aside and the revision petition is allowed. The counsel for the respondent-decree holder states that he would not have any officer arrested in executed but his right as granted in the judgment must be recognized. I will understand the right recognized is the right in relation to the property where the mandir is constructed and the right to possess the property without in any way being disturbed by the State. The right of the State, I clarify, shall be to maintain the roads that existed and make such repairs or maintenance as situation might warrant, but the State will not have any right over the property where the Shiva Mandir is situate.

3. Civil revision is allowed but subject to the observations made above.

(K.KANNAN)
JUDGE

28.07.2015
sanjeev