

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

**CR No. 4660 of 2014 (O&M)
Date of decision: 08.09.2015**

Khazan Singh

... Petitioner

versus

Dharam Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Rajiv Sharma, Advocate for the petitioner.

K.Kannan, J.

The plaintiff who obtained a decree of 1/3rd share for the possession and certain other reliefs is confronted with the situation of being unable to take the possession because there is a house property in the whole of the property. I cannot understand as to how the possession of an undivided share could be asked in a suit and how it could be brought for execution. The decree-holder has brought to himself a difficulty which cannot be helped by a Court for a direction for demolition of any construction which is there. The Executing Court cannot also go behind the decree and cause the demolition of construction unless the decree-holder's case was that a construction has been put up subsequent to the grant of a decree by the judgment debtor and therefore the bailiff must cause the removal of the construction and deliver the property. There is no such plea made by the decree-holder through such an application to allow for execution when there is a building on the respective property.

The revision petition is dismissed.

Counsel seeks for permission to avail other legal remedies. If there are any legal remedies, the petitioner is at liberty to avail such remedies as it is feasible.

**(K.KANNAN)
JUDGE**

08.09.2015

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