

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

Civil Revision No. 6345 of 2013 (O&M)

Date of decision : 3.3.2015

Jagdev Singh

.. Petitioner

versus

Ranjit Singh

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Abhijeet P. S. Chaudhary, Advocate, for the petitioner.

None for the respondent despite service.

Rajesh Bindal, J.

1. The petitioner has approached this Court impugning the order dated 21.8.2013 (Annexure P-8), passed by the Executing Court, whereby the execution proceedings were stayed till such time the suit filed by the respondent was decided.

2. Notice in the present petition was issued on 6.11.2013 for 22.1.2014. As the notice had not been received back served or otherwise, fresh notice was directed to be issued for 23.5.2014. As has been noticed in the order passed on that date, service of the respondent was complete, however, none appeared. Same was the position on all subsequent dates of hearing. Even today, the case was taken up twice, however, none appeared for the respondent. Hence, the arguments of learned counsel for the petitioner were heard.

3. Learned counsel for the petitioner submitted that the respondent entered into an agreement to sell land measuring 12 kanals 8 marlas for a total sale consideration of ₹ 90,00,000/- on 8.4.2010. ₹ 70,00,000/- were paid as earnest money. The last date for registration of the sale deed was fixed as 30.4.2011 which with mutual consent of the parties was extended to 10.8.2011. As the respondent failed to get the sale-deed registered on the date fixed, the suit for possession by way of specific

performance of agreement to sell was filed on 16.8.2011. The same was compromised on 28.8.2012. The compromise was reduced into writing. On the basis of the compromise, award was passed by the Mega Lok Adalat, Ludhiana, on 15.12.2012. In terms of the compromise, the petitioner was to pay the balance amount within one week from the date certified copy of the order was received from the Court. A sum of ₹ 6,72,000/- was paid in cash on 9.1.2013, whereas ₹ 17,50,000/- were deposited in the account of the wife of the respondent on 10.1.2013, as suggested by him. Despite this fact, the sale-deed was not got executed by the respondent. In terms of Section 22E of the Legal Services Authorities Act, 1987 (for short, 'the Act'), the award of the Permanent Lok Adalat is final. It is deemed to be a decree executable in the Civil Court and the same cannot be called in question in any original suit, application or execution proceedings.

4. Despite the fact that the respondent received ₹ 94,22,000/- as against total consideration of ₹ 90,00,000/- and the matter was compromised before the Mega Lok Adalat, still the sale-deed having not been registered, the petitioner filed execution on 6.2.2013. As the intention of the respondent was not fair, he filed a suit on 30.1.2013, challenging the agreement to sell dated 8.4.2010 and the compromise arrived at on 28.8.2012. He filed the suit on 30.1.2013 after receiving the aforesaid amount. The intention of the respondent is evident from the fact that in the Civil Suit he did not even mention the fact that the matter was compromised before the Lok Adalat and the award was passed on 15.12.2012. In the execution, on an application filed by the respondent, the proceedings were stayed vide order dated 21.8.2013 till such time the suit was decided on the plea that the suit was prior in time and the execution was later filed by the respondent.

5. Learned counsel for the petitioner while assailing the aforesaid order dated 21.8.2013 passed by the Executing Court submitted that the principle applied by the Court for staying the execution proceedings was not applicable in the facts of the case as these are not two suits, rather the petitioner had filed execution of the award passed in his favour by the Mega Lok Adalat which is a deemed decree. No separate suit to challenge that decree was maintainable. The issue could not be raised in execution. To

overcome that legal bar, the respondent smartly concealed the factum of award of the Mega Lok Adalat while filing the suit challenging the agreement to sell dated 8.4.2010 and the compromise arrived at on 28.8.2012, on the basis of which award was passed by the Mega Lok Adalat. Once the suit itself was not maintainable, there was no question of stay of proceedings in the execution filed by the petitioner on that ground.

6. Heard learned counsel for the petitioner and perused the paper book.

7. The facts as stated by the petitioner, namely, the execution of agreement to sell dated 8.4.2010 on total sale consideration of ₹ 90,00,000/-, the payment of earnest money of ₹ 70,00,000/- at the time of execution of agreement to sell, compromise arrived at between the parties on 28.8.2012 and passing of the award by the Mega Lok Adalat on 15.12.2012 have remained undisputed as none has appeared for the respondent despite service. Further contention of learned counsel for the petitioner was that as against balance payment of ₹ 20,00,000/-, the petitioner paid ₹ 6,72,000/- in cash to the respondent and deposited ₹ 17,50,000/- in the account of the wife of the respondent as desired by him. In support, he has produced the receipt of ₹ 6,72,000/- as Annexure P-4 and Annexures P-5 and P-6 in support of the plea that ₹ 17,50,000/- were deposited in the account of the wife of the respondent on 10.1.2013. When despite this fact, the respondent failed to get the sale-deed registered, the petitioner filed execution on 6.2.2013. After receipt of not only the sale consideration but even more amount than that, the respondent filed suit on 30.1.2013 challenging the agreement to sell dated 8.4.2010 and compromise arrived at on 28.8.2012. In the aforesaid suit, the respondent did not mention the factum of passing of award by the Mega Lok Adalat on the basis of compromise arrived at between the parties. On receipt of notice in the execution, the application was filed by the respondent for stay of proceedings therein on the ground that a suit filed by him on the same subject matter, which is prior in time, was pending. Accepting the plea of the respondent, the learned Court below stayed the proceedings in the execution.

8. The award passed by the Mega Lok Adalat on 15.12.2012 is reproduced below:-

“File taken up in Mega Lok Adalat. Attorney of Plaintiff has already given his statement on 19.11.2012 and has exhibited the Panchayati Rajinama Ex. P1 and in terms of it. The case stands disposed off. Ex. P1 shall be read as part of this award and Parties shall remain bound by the statement of attorney of plaintiff and Ex. P1. Accordingly award is passed. Court fee be refunded as provided in Section 21 of the Legal Services Authorities Act, 1987. File be consigned to record room, Ludhiana.”

9. The provisions of Section 10 of CPC and Section 22E of the Legal Services Authorities Act, which are relevant, are extracted below:-

10. Stay of suit: No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.

“22E. Award of Permanent Lok Adalat to be final.-

(1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under

this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.”

10. The import of Section 22 of the Act, came up for consideration before Hon'ble the Supreme Court in P.T. Thomas v. Thomas Job, 2005 (3) RCR (Civil) 621. It was opined therein that award of Lok Adalat is deemed to be decree of the Court, hence, the Court has all the powers with respect to the same as it has in relation to a decree passed by it, which includes even power to extend time. The only difference is the method adopted for reaching a decision in Lok Adalat. The object is to put an end to the litigation. The Court also expressed views on what is Lok Adalat, benefits thereof, and the status of the award of the Lok Adalat. In case finality attached to award passed by the Lok Adalat is allowed to be destroyed, the very object of the Act would be defeated. The relevant paras thereof are extracted below:-

“15. In our opinion, the award of the Lok Adalat is fictionally deemed to be decrees of Court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. This, in our opinion, includes the powers to extend time in appropriate cases. In our opinion, the award passed by the Lok Adalat is the decision of the court itself though arrived at by the simpler method of conciliation instead of the process of arguments in court. The effect is the same. In this connection, the High Court has failed to note that by the award what is put an end to is the appeal in the District Court and thereby the litigations between brothers forever. The view taken by the High Court, in our view, will totally defeat the object and purposes of the Legal Services Authorities Act and render the decision of the Lok Adalat meaningless.

16. xx xx xx xx

17. What is Lok Adalat? :

"The "Lok Adalat" is an old form of adjudicating system prevailed in ancient India and it's validity has not been taken away even in the modern days too. The word 'Lok Adalat' means 'People Court'. This system is based on Gandhian Principles. It is one of the components of ADR system. As the Indian Courts are over burdened with the backlog of cases and the regular Courts are to decide the cases involve a lengthy, expensive and tedious procedure. The Court takes years together to settle even petty cases. Lok Adalat, therefore provides alternative resolution or devise for expeditious and inexpensive justice.

In Lok Adalat proceedings there are no victors and vanquished and, thus, no rancour.

Experiment of 'Lok Adalat' as an alternate mode of dispute settlement has come to be accepted in India, as a viable, economic, efficient and informal one.

LOK ADALAT is another alternative to JUDICIAL JUSTICE. This is a recent strategy for delivering informal, cheap and expeditious justice to the common man by way of settling disputes, which are pending in Courts and also those, which have not yet reached Courts by negotiation, conciliation and by adopting persuasive, common sense and human approach to the problems of the disputants, with the assistance of specially trained and experienced Members of a Team of Conciliators."

Benefits Under Lok Adalat:

1. There is no Court fee and if Court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat according to the rules.

2. The basic features of Lok Adalat are the procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws like Civil Procedure Code and Evidence Act while assessing the claim by Lok

Adalat.

3. The parties to the dispute can directly interact with the Judge through their Counsel which is not possible in regular Courts of law.

4. The award by the Lok Adalat is binding on the parties and it has the status of a decree of a Civil Court and it is non-appealable which does not causes the delay in the settlement of disputes finally.

In view of above facilities provided by the 'Act' Lok Adalats are boon to the litigating public they can get their disputes settled fast and free of cost amicably.

Award of Lok Adalat :-

The Lok Adalat shall proceed and dispose the cases and arrive at a compromise or settlement by following the legal principles, equity and natural justice. Ultimately the Lok Adalat passes an award, and every such award shall be deemed to be a decree of Civil Court or as the case may be which is final.

Award of Lok Adalat shall be Final :-

18. The Lok Adalat will pass the award with the consent of the parties, therefore there is no need either to reconsider or review the matter again and again, as the award passed by the Lok Adalat shall be final. Even as under Section 96(3) of C.P.C. that "no appeal shall lie from a decree passed by the Court with the consent of the parties". The award of the Lok Adalat is an order by the Lok Adalat under the consent of the parties, and it shall be deemed to be a decree of the Civil Court, therefore an appeal shall not lie from the award of the Lok Adalat as under Section 96(3) C.P.C.

19. In **Punjab National Bank vs. Lakshmichand Rah, AIR 2000 Madhya Pradesh 301, 304**, the High Court held that "The provisions of the Act shall prevail in the matter of filing an appeal and an appeal would not lie

under the provisions of Section 96 C.P.C. Lok Adalat is conducted under an independent enactment and once the award is made by Lok Adalat the right of appeal shall be governed by the provisions of the Legal Services Authorities Act when it has been specifically barred under Provisions of Section 21(2), no appeal can be filed against the award under Section 96 C.P.C." The Court further stated that "It may incidentally be further seen that even the Code of Civil Procedure does not provide for an appeal under Section 96(3) against a consent decree. The Civil Procedure Code also intends that once a consent decree is passed by Civil Court finality is attached to it. Such finality cannot be permitted to be destroyed, particularly under the Legal Services Authorities Act, as it would amount to defeat the very aim and object of the Act with which it has been enacted, hence, we hold that the appeal filed is not maintainable.

The High Court of Andhra Pradesh held that, in **Board of Trustees of the Port of Visakhapatnam vs. Presiding Officer, Permanent, Lok Adalat-cum-Secretary, District Legal Services Authority, Visakhapatnam and another** 2000(5) ALT 577, " The award is enforceable as a decree and it is final. In all fours, the endeavour is only to see that the disputes are narrowed down and make the final settlement so that the parties are not again driven to further litigation or any dispute. Though the award of a Lok Adalat is not a result of a contest on merits just as a regular suit by a Court on (or?) a regular suit by a Court on a regular trial, however, it is as equal and on par with a decree on compromise and will have the same binding effect and conclusive just as the decree passed on the compromises cannot be challenged in a regular appeal, the award of the Lok Adalat being akin to the same, cannot be challenged by any regular remedies

available under law including invoking Article 226 of the Constitution of India challenging the correctness of the award on any ground. Judicial review cannot be invoked in such awards especially on the grounds as raised in this writ petition.

20. The award of Lok Adalat is final and permanent which is equivalent to a decree executable, and the same is an ending to the litigation among parties.” (emphasis supplied).

11. The same view was expressed in K.N.Govindan Kutty Menon v. C.D. Shaji, AIR 2012 SC 719.

12. The vires of Section 22 (E) of the Act were considered by Hon'ble the Supreme Court. Vide judgment in Bar Council of India v. Union of India, 2012 (4) RCR (Civil) 262, the same were upheld. One of the grounds to challenge the vires was that no appeal has been provided against the award of the Lok Adalat. Hon'ble the Supreme Court opined that right of appeal is not inherent. It is a creature of statute. The relevant para thereof is extracted below:-

“33. There is no inherent right of appeal. Appeal is always a creature of statute and if no appeal is provided to an aggrieved party in a particular statute, that by itself may not render that statute unconstitutional. Section 22-E(1) makes every award of the Permanent Lok Adalat under 1987 Act either on merit or in terms of a settlement final and binding on all the parties thereto and on persons claiming under them. No appeal is provided from the award passed by the Permanent Lok Adalat but that, in our opinion, does not render the impugned provisions unconstitutional. In the first place, having regard to the nature of dispute upto a specific pecuniary limit relating to public utility service and resolution of such dispute by the procedure provided in Section 22-C(1) to 22-C(8), it is important that such dispute is brought to an end at the earliest and is not prolonged unnecessarily. Secondly, and

more importantly, if at all a party to the dispute has a grievance against the award of Permanent Lok Adalat he can always approach the High Court under its supervisory and extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. There is no merit in the submission of the learned counsel for the petitioner that in that situation the burden of litigation would be brought back on the High Courts after the award is passed by the Permanent Lok Adalat on merits.” (emphasis supplied).

13. Hon'ble the Supreme Court in Indian Bank vs Maharashtra State Co-operative Marketing Federation Limited AIR 1998 SC 1952, while considering scope of Section 10 CPC held as under:-

“6. Section 10 of the Code prohibits the court from proceeding with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit provided other conditions mentioned in the section are also satisfied. The word 'trial' is no doubt of a very wide import as pointed out by the High Court. In legal parlance it means a judicial examination and determination of the issue in civil or criminal court by a competent Tribunal. According to Webster Comprehensive Dictionary, International Edition, it means the examination, before a tribunal having assigned jurisdiction, of the facts or law involved in an issue in order to determine that issue. According to Stroud's Judicial Dictionary (5th Edition), a 'trial' is the conclusion, by a competent tribunal, of question in issue in legal proceedings, whether civil or criminal. Thus in its widest sense it would include all the proceedings right from the stage of institution of a plaint in a civil case to the stage of final determination by a judgment and decree of the Court. Whether the widest meaning should be given to the word 'trial' or that it should be construed narrowly must necessarily depend upon the nature and object of the

provision and the context in which it used.”

14. Hon'ble the Supreme Court in National Institute of Mental Health & Neuro Sciences v. C. Parameshwara, 2005 (2) SCC 256 opined that the underlying object of Section 10 CPC is to prevent the court of concurrent jurisdiction from simultaneously trying two parallel suits in respect of same subject matter. It is to avoid recording of conflicting findings on issues which are directly and substantially involved in previously instituted suit. The fundamental test is whether the final decision in the previous suit would operate as *res judicata* in subsequent suit. Relevant para thereof is extracted below:-

“8. The object underlying Section 10 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the same matter in issue. The object underlying Section 10 is to avoid two parallel trials on the same issue by two Courts and to avoid recording of conflicting findings on issues which are directly and substantially in issue in previously instituted suit. The language of Section 10 suggests that it is referable to a suit instituted in the civil Court and it cannot apply to proceedings of other nature instituted under any other statute. The object of Section 10 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits between the same parties in respect of the same matter in issue. The fundamental test to attract Section 10 is, whether on final decision being reached in the previous suit, such decision would operate as *res judicata* in the subsequent suit Section 10 applies only in cases where the whole of the subject matter in both the suits is identical. The key words in Section 10 are “the matter in issue is directly and substantially in issue” in the previously instituted suit. The words “directly and substantially in issue” are used in contra-distinction to the words “incidentally or collaterally in issue”. Therefore, Section 10 would apply only if there is identity of the

matter in issue in both the suits, meaning thereby, that the whole of subject matter in both the proceedings is identical.”

15. A somewhat similar issue was considered by Lahore High Court in Mahboob Begum vs Ghulam Muhammad and another AIR 1929 Lahore 694, where a decree was passed in favour of party to the litigation regarding possession of certain property, which was upheld in appeal. The decree holder filed execution. Objections were filed in execution by the mother of the judgment debtor claiming that she had instituted a declaratory suit pertaining to the same property which was dismissed and the matter was pending before the High Court. Prayer for staying the proceeding was made under Section 10 read with Section 151 CPC. The Executing Court stayed the proceedings on the ground that question of possession has to be determined in the appeal pending before the High Court. It was opined by the Court that while staying the execution proceeding on the ground claimed by the objector, the Court had refused to exercise a jurisdiction vested in it.

16. Rajasthan High Court in Munilal vs Sarvajeet AIR 1984 Rajasthan 22, opined as under:-

“16. Thus, while holding that the provisions of Section 10, Civil Procedure Code are mandatory and the trial of a subsequently instituted suit is bound to be stayed if any party makes a request before the Court trying that suit that a previously instituted suit is pending determination either in the trial court, or the first appeal or second appeal arising therefrom is pending for decision. But if the trial of the subsequently instituted suit has proceeded without any object and the same has terminated with the delivery of the judgment and the preparation of the decree of that court, then section 10, Civil Procedure Code has no relevance because it only prohibits the 'trial of the suit' and no further. Following the dictum of Vivian Bose, J. in Gangaprasad's case (AIR 1937 Nagpur 132) as no objection under Section 10, Civil Procedure Code to the trial of the subsequently instituted suit was taken until the

termination of the proceedings in the suit the objection must be deemed to have been waived by the petitioner and it is not open to him to raise such an objection in the appeal arising out of the subsequently instituted suit.

17. Learned counsel for the petitioner may be right in submitting that as the provisions of Section 10, Civil Procedure Code are mandatory, the court was not competent to impose any condition while staying the proceedings in the suit, but I refrain from expressing any opinion on this question. In my view, the trial of the subsequently instituted suit is over and the objection under Section 10, Civil Procedure Code having been waived at the trial stage, the same could not be entertained by the first appellate court.”

17. An identical issue came up for consideration before Kerala High Court in S. Kumar vs Sudhakaran and others 2009 (3) CivCC 785, where the question was 'whether the defendant in a suit can invoke Section 10 of the Civil Procedure Code to stay the suit, on the ground that the Execution Petition filed by him to execute the decree in his favour in the previously instituted suit is pending.' The Court opined that basic requirement for application of Section 10 CPC is pendency of two suits in which the parties are same and the issue in one suit is directly and substantially in issue in the other suit. The object is to avoid two conflicting judgments. One of the test to be applied is whether the decision in one suit will operate as res judicata in the other suit. If yes, the proceedings in the subsequent suit are to be stayed. However, once a suit has already been disposed of, there is no application of Section 10 CPC in those circumstances. Section 10 lays down a procedure and does not confer any substantive right on the parties. Relevant para 4 of the judgment is extracted below:-

“4. Section 10 of the Civil Procedure Code provides that no Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or

between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court having jurisdiction to grant the relief claimed. The basic requirement for the application of Section 10 is pendency of two suits in which the parties are same or the parties in one suit are persons claiming title under the parties in the other suit. To attract Section 10, the matter in issue in one suit must be directly and substantially in issue in the other suit. The object of Section 10 of the Civil Procedure Code is to prevent Courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two suits in respect of the same subject matter between the same parties. It is intended to avoid conflicting decisions being rendered by different Courts. One of the tests applied in the matter of stay under Section 10 of the Civil Procedure Code is whether the decision in one suit would operate as res judicata in the other suit. If so, applying Section 10 of the Civil Procedure Code, the subsequently instituted suit should be stayed. Though the pendency of the Appeal against the decree in the previously instituted suit can be treated as pendency of the suit, once the suit is finally disposed of, there is no scope for applying Section 10 of the Civil Procedure Code. Pendency of the execution proceedings in the previously instituted suit is not a ground to stay the subsequent suit, invoking Section 10 of the Civil Procedure Code. If the matter in issue was decided in the previously instituted suit, the writ petitioner could very well raise the plea of res judicata in the subsequent suit. If such a plea cannot be raised by the writ petitioner, that itself is an indication that the ingredients of Section 10 are not attracted. Section 10 lays down a procedure and it does not confer upon the parties any substantive right. In the present case, the respondents were not parties to O.S.

No.468 of 1972. The contention of the respondents (plaintiffs in O.S.No. 580 of 2008) is that they are not bound by the decree in O.S. No. 468 of 1972 and that the writ petitioner is not entitled to get delivery of the property claimed by the respondents in execution of the decree in O. S. No. 468 of 1972. The writ petitioner has no case that the respondents are bound by the decision in the previously instituted suit. The basic ingredients of Section 10 are not made out in order to enable the petitioner to invoke Section 10 of the Civil Procedure Code. The Court below was justified in dismissing the application.”

18. The consistent legal opinion expressed by the Courts on interpretation of Section 10 CPC is that the provisions prohibits the Court from proceeding with the trial of any suit in case a previously instituted suit involves the same issue between the same parties. In legal parlance, the meaning of word 'trial' is examination and determination of issues by a Court. Trial is conclusion of the proceedings. It would include from the stage of institution to the stage of final determination by a judgment. The object is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of same subject matter to avoid recording of conflicting findings. It applies to suits instituted in Civil Court. The fundamental test to attract Section 10 CPC is whether final decision in a suit instituted earlier would operate as res judicata.

19. In the case in hand, the undisputed facts are that in a suit earlier filed by the petitioner, the matter was settled before the Lok Adalat. Award was passed which is deemed to be a decree in terms of Section 22E of the Act, the execution of which was sought by the petitioner. On account of a subsequent suit filed by the respondent questioning the agreement to sell and the settlement arrived at between the parties before the Lok Adalat, the proceedings in execution were stayed on the ground that the execution was filed subsequent to the filing of the suit. The execution cannot be equated with the suit for the purpose of application of principle of Section 10 CPC for stay of proceedings as execution is of a decree already passed by the Court. The principle on which the proceedings in a subsequent suit are

stayed are to avoid conflicting judgment on the same issue. The issues in the previously instituted suit had already been decided.

20. The conduct of the respondent is evident from the fact that he filed the civil suit after concealing the factum of passing of the award by the Mega Lok Adalat after receipt of not only the entire sale consideration but even amount more than that. Further in terms of Section 22E of the Act, an award passed by the Permanent Lok Adalat is deemed to be a decree of the Civil Court and executable in the same manner. The same cannot be questioned by way of separate suit, application or in execution proceedings. With a view to over-reach the Court and misuse the process of law, the respondent by concealing the factum of award passed by the Mega Lok Adalat filed the suit challenging the agreement to sell and the compromise arrived at between the parties.

21. The principle applied by the learned Court below for staying the proceedings in the execution petition filed by the petitioner will not be applicable in the case in hand as these are not two civil suits pending with reference to the same subject matter, rather one is the execution petition in a decree already passed, whereas the second is the civil suit. The decree already passed deserves to be executed.

22. For the reasons mentioned above, the impugned order dated 21.8.2013 (Annexure P-8) passed by the learned Court below is set aside. Learned Executing Court is directed to proceed with the execution.

23. The revision petition is disposed of.

3.3.2015
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)