

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6823 of 2013
Date of decision: 17.09.2015

Sarwan Singh

... Petitioner

Versus

Buta Ram and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajinder Kumar Singla, Advocate
for the petitioner.

Ms. Sonia G. Singh, Advocate for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 07.08.2013, rendered by Additional Civil Judge (Sr. Divn.), Nakodar, the objections preferred by the petitioner/judgment debtor have since been rejected.

Respondent-Buta Ram had filed a suit for recovery of ₹ 38,451/- against the petitioner and the proforma respondent. And prayed: (i) ₹ 29,922/- being 1/3rd share of produce as share of plaintiff of cultivation of land measuring 6 kanals 0 marla bearing Khasra No.99/6 min (4-0), 7 min (2-0), under K/K No.157/217, 159/219, situated in area of Parjian Khurd and land measuring 3 kanals 6 marlas covered under K/K No.640/827 bearing Khasra No.100//10 min (3-6),

situated in the area of Village Parjian Kalan, as mesne profits for crop Sauni, 2005 to Hari, 2008 from defendant No.1; (ii) ₹ 8,529/- being 1/3rd share of produce of land measuring 3 kanals 0 marla, situated in area of Village Parjian Kalan and covered under K/K No.640/828, and bearing Khasra No.100//10 min (3-0) as share of plaintiff as mesne profits for the crop Sauni, 2005 to Hari, 2008 from defendant No.2, on the basis of Naksha Normal Rate. The said suit was decreed by the trial court vide judgment and decree dated 16.04.2011. Since, the appeal preferred against the said decree was also dismissed, the same has since attained finality. In execution of the said decree, petitioner preferred objections to say that post passing of the decree dated 16.04.2011, Santokh Singh son of Babu Ram had filed a petition before the Deputy Commissioner, Jalandhar, seeking cancellation of the transfer of the land measuring 27 kanals 5 marlas in favour of the respondent/decreed-holder including the suit property. And, vide order dated 25.09.2012, the Deputy Commissioner, Jalandhar, set aside the transfer in favour of Buta Ram. Therefore, the decree could not be executed against the petitioner/judgment debtor.

Learned executing court, on a consideration of the matter in issue and the material on record, rejected the objections and concluded as thus:

“5. I have heard counsels for the parties and I have perused the material on record. It is not a dispute fact that the suit for recovery was decreed in favour of decree holder and the appeal filed by JD’s before the appellate court, Jalandhar was also dismissed. It is also undisputed that there is no stay granted by any higher court on the proceedings of the present execution. So far as the order dated 25.9.2012 of Deputy Commissioner, Jalandhar is concerned, a status quo order has been passed against the said order by Commissioner, Jalandhar vide order dated 7.11.2012, a copy of which has been placed on record by decree holder. Moreover, the said petition before the Deputy Commissioner, Jalandhar was not filed by JD’s nor there is any proof of fact that the order of Deputy Commissioner, Jalandhar was also concerned with the land as comprised in the present suit in which the judgment and decree in question was passed, out of which the present execution has originated. Accordingly, the objection petition in question is baseless and the same is hereby dismissed.”

I have heard learned counsel for the parties and perused the paper book.

Concededly, the decree dated 16.04.2011, granted in favour of respondent-Buta Ram, had since attained finality. Indisputably, respondent/decreed-holder claimed mesne profits from the petitioner for use and occupation of the suit land for the period, he held a title thereto and before the transfer in his favour was cancelled by the Deputy Commissioner, Jalandhar,

vide order dated 25.09.2012. That being so, the executing court rightly rejected the objections preferred by the petitioner.

Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the executing court was either contrary to the position on record or suffered from any material illegality.

In the wake of the position, as set out above, no interference is warranted, in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is accordingly dismissed.

September 17, 2015
Rajan

(Arun Palli)
Judge