

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6941 of 2014
Date of decision : October 1, 2015

Narinder Kumar @ Neena

..... Petitioner

Versus

Bhupinder Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. K. Handa, Advocate
for the petitioner.

Mr. M. S. Dhami, Advocate
for respondent Nos. 1 and 2.

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?

Amit Rawal, J (oral).

The challenge in the present petition is to the order dated 29.8.2014 (Annexure P-1) whereby the objections filed by the petitioner-judgment debtor under Order 21 Rule 29 read with Section 47 and 151 CPC have been rejected.

Mr. R. K. Handa, learned counsel appearing on behalf of the petitioner-judgment debtor-Lashkari Ram submits that a suit for mandatory injunction seeking appropriate direction against the petitioner-judgment debtor for handing over the possession of the suit property had been decreed.

The said judgment and decree had attained finality

and the petitioner-judgment debtor has been held to be a licensee. After passing of the judgment and decree Lashkari Ram died and therefore the petitioner being son would have interest in the property of the deceased. The court below has failed to notice the provisions of Hindu Succession Act, 1956 in declining the application/objection. Even this Court, passed an interim order, yet the possession had been taken by the decree holder.

Mr. M. S. Dhami, learned counsel for respondent Nos. 1 and 2 submits that the deceased-Lashkari Ram had left behind a registered Will dated 23.7.2004, in favour of both the respondents i.e. 1 and 2 and in pursuance to the aforementioned registered will an application for grant of succession certificate was filed on 17.2.2011, wherein the petitioner was also arrayed as defendant No.2. Despite service upon his wife, he did not appear nor contested the same. The succession certificate has been granted in respect of movable property i.e. Bank account. As per the succession certificate a sum of ₹25,000/- has been ordered to be disbursed in favour of Jaskaran and Baljit Kaur son and daughter of Narinder Kumar-petitioner. He submits that there is no illegality and perversity in the order and the revision petition is liable to be dismissed.

Mr. R. K. Handa, learned counsel appearing on behalf of the petitioner in rebuttal, submits that the petitioner has filed a civil suit on 17.7.2014 challenging the Will and the suit is still pending.

I have heard learned counsel for the parties and

appraised the paper book.

Noticing the contentions and rival contentions, it is now a settled law that the executing court cannot go behind the decree. The petitioner has already challenged the authenticity/genuineness of the Will executed by late Lashkari Ram. It is yet to be decided whether the Will is surrounded by suspicious circumstances or not. In case, the petitioner succeeds in suit he would get his share in the property left behind by Lashkari Ram. Until and unless the suit is not decided, the petitioner cannot be thwart, the execution of the decree.

In my view, there is no illegality or perversity in the impugned order whereby the objections have been dismissed. The petitioner shall be at liberty to seek any interim direction against respondent Nos. 1 and 2 in the pending suit viz-a-viz the nature of the property.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

October 1 , 2015
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