

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 7874 of 2015 (O&M)

Date of decision : December 04, 2015

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Kuldeep Kumar

.....Petitioner

Versus

Naresh Kalra and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. R.S Mamli, Advocate for the petitioner.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

C.M No. 25573-II of 2015

Prayer made in the application is allowed. Copy of order dated 28.11.2014 is taken on record as Annexure P-6.

C.M stands disposed of.

CR No. 7874 of 2015

The petitioner has filed this revision petition against the order dated 29.8.2015 passed by the Civil Judge (Junior Division) Jagadhari, whereby the objections filed on behalf of the petitioner- Kuldeep Kumar in execution proceedings have been dismissed. The petitioner Kuldeep Kumar is a third party objector. As per judgment dated 18.4.2007 in the Civil suit titled as 'Jagat Singh vs. Naresh etc'

according to a lease deed dated 15.2.1999 (Ex. D1), a plot measuring 66 x 60' was taken on lease for 99 years by Naresh Kalra from Smadh Nanu Sidh through its Mohtmim Surya Parkash. In the East of the plot, there is property of lessor; in West, there is street; in North, plot on lease with Jagat Singh and in the South, plot on lease with Sushil Kumar and the land forms part of Khasra No. 69//35. Further, a perusal of Akas Sijra which is annexed as Ex. PW-2/C. Further a perusal of Akas Sijra which is annexed As Ex. PW2/C in the said Civil suit reveals that Khasra No.70//27 adjoins khasra No. 69//35 and there is no open space in between the two numbers and then the Civil Court reached the conclusion that it is Naresh Kalra who is lessee over the suit property.

The third objector by way of preset application was seeking a fresh demarcation to identify the boundaries of the plot of the decreeholder. The application has been dismissed by the trial Court by observing that civil Suit No 125/13/3/2013 has been filed by the third party objector and the same was pending in the Court of Shri Rajiv, Civil Judge (Junior Division), Yamuna Nagar at Jagadhri. An application under Order 39 Rules 1 and 2 filed in the said civil suit has already been dismissed by the Civil Judge (Junior Division) Yamuna Nagar at Jagadhari vide order dated 9.7.2014. Thereafter on appeal, the lower appellate Court has affirmed the order of the trial Court. A perusal of the order passed by Additional District Judge, Yamuna Nagar at Jagadhri dated 28.11.2014 (Annexure P-6) shows that the third party objector had filed the suit for mandatory

injunction restraining the defendant, Naresh Kalra from interfering into actual, physical possession of the plaintiff over southern portion of plot no.110, measuring 190.66 Sq. yards. In paragraph 9 & 10 of the order dated 28.11.2014 it has been observed that the respondent-Naresh Kalra in the present case is claiming 440 Sq. yards i.e 66x60' plot in khasra No. 69/35 as lessee from Suriya Parkash grandfather of Vishal vide lease deed date 15.4.1992. A dispute was raised with regard to the same plot by Jagat Singh claiming it to be part of khasra No. 70/27. In this case, the respondent filed their counter claim and suit was dismissed while counter claim was accepted. Even the appeal against the said judgment has been dismissed. Once the counter claim of Naresh Kalra has been accepted, he has been held to be owner of plot No.69/35 which was given to him on lease on 15.4.1992. The plaintiff miserably failed to prove that on the northern side of the plot of Naresh Kalra in Khasra no. 69/35 is the plot of Swaran Kaur which is situated in khasra no. 70/27. The plaintiff failed to get the said land demarcated or establish his identity and his Order 39 Rules 1 & 2 has been dismissed by both the Courts below.

After going through the order dated 28.11.2014 passed by the Additional District Judge, Yamunanagar at Jagadhri (Annexure P-6), the objections filed by the third party objector/petitioner has been rightly dismissed by the trial Court as he could not lead any evidence to show that he had the ownership of khasra no. 70/27. In view of the facts and circumstances of this case, no interference of

this Court is called for in the impugned order and the present revision petition is dismissed.

December 04, 2015
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(RITU BAHRI)
JUDGE