

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

**Civil Revision No.78 of 2014
Date of Decision: August 25, 2015**

Sukhwinder Singh Bhatia Petitioner

vs.

Dilbag Singh Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Munish Gupta, Advocate for the petitioner.

Mr. Arun Thaki, Advocate for the respondent.

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?

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the judgment dated 14.10.2013 (Annexure P-8) passed by learned Civil Judge (Sr. Divn.), Hoshiarpur, vide which the application filed by the petitioner-plaintiff under Order XXI, Rule 32 read with Section 151 CPC was dismissed.

The brief background of the case is that vide judgment and decree dated 13.05.1994 (Annexure P-1), learned Sub Judge, IInd Class, Hoshiarpur restrained the respondent from blocking the passage marked as 'ABCD' except in due course of law. The said judgment and decree was upheld in appeal and had attained the finality in the year 1996.

In the present execution petition filed in the year 2009, the grouse of the decree holder is that the judgment debtor despite

the decree, constructed a wall in the passage in dispute and blocked the entry/gate of the petitioner-plaintiff. The judgment debtor appeared and denied the said allegations. The Executing Court went on to frame the issue “Whether judgment debtor had violated the judgment and decree dated 13.05.1994?” and came to the conclusion that the same was not violated. The findings on the basis of oral evidence led by both the parties, were recorded.

After going through the file, I am of the view that the impugned order is wholly erroneous. In this case, there was a simple application that the passage has been blocked. Therefore, the oral evidence will not help to solve the issue. It was proper for the Executing Court to get the site inspected to examine whether the passage has been blocked or not and if the same is found to be blocked, then get the blockage removed. If it is done by the judgment debtor, the costs of the said removal is to be borne by him.

However, even before this Court, the judgment debtor has denied that he has blocked the passage.

In these circumstances, the impugned order is set aside and the case is remanded back to the the learned Civil Judge (Sr. Divn.), Hoshiarpur with a direction to get the site inspected from the Local Commissioner and find out whether the passage in dispute has been blocked by the judgment debtor or not. If the same is found to be blocked, then that blockage should be removed at the cost of the party at fault.

Accordingly, the parties are directed to appear before the learned Civil Judge (Sr. Divn.), Hoshiarpur on 23.09.2015.

Consequently, the present revision petition stands allowed.

August 25, 2015
sarita

(KULDIP SINGH)
JUDGE