

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8304 of 2015 (O/M)
Date of decision : 7.12.2015

Jaggar Singh and others

..... Revisionists

Versus

Mangu Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Amit Kumar Walia, Advocate,
for the revisionists.

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

-:-

-:-

KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 10.9.2015, passed by the learned Additional District Judge, Sangrur, affirming the judgment and decree dated 6.11.2013, passed by the learned Civil Judge (Senior Division), Sangrur, vide which during the execution proceedings, initiated under Order 21 Rule 32 of Code of Civil Procedure, 1908 (in short 'CPC'), the executing Court, after framing the issues and allowing the parties to lead the evidence, held that the present appellants, who were defendants in the earlier suit, have violated the said judgment and decree. Therefore, they

CR No. 8304 of 2015 (O/M)

-2-

were ordered to undergo civil imprisonment for three months on payment of subsistence allowance by the petitioners, whereas petition qua respondents No. 5 to 8 was dismissed.

The short controversy involved in the present case is that a judgment and decree for permanent injunction was passed against the present revisionists on 22.12.2003 to the effect that they were restrained from interfering in the disputed house or dis-possessing the plaintiffs (respondents herein) therefrom. Subsequently, an application was filed before the lower Court on 17.1.2006, alleging that in the last week of December, 2005, when the said plaintiffs were out in the fields, a truck bearing No. PB-03H-6617, hit the house of the plaintiffs and the entire house was damaged by the truck. The driver of the truck fled away from the spot. Defendants No. 1 to 4 took the benefit of the situation and took possession of the house. They took the help of SHO, PS Longowal and started re-constructing the house. Both the Courts below have held that the JDs/present revisionists have violated the judgment and decree and, therefore, the impugned order was passed.

I have heard the learned counsel for the revisionists and have also carefully gone through the file.

Before this Court, it is postulated that the JDs/present revisionists are in possession of the house. Rather, it is sought to be pressed that the earlier judgment and decree was incorrectly

CR No. 8304 of 2015 (O/M)

-3-

passed and even at that time, the JDs/present revisionists were in possession of the house. However, it comes out that the said judgment and decree was affirmed by the appellate lower Court and has now become final. The executing Court cannot go beyond the decree and record the findings contrary to what were recorded in the original judgment. The fact that the JDs/present revisionists' claim to be in possession of the house, goes to show that the decree has been violated. However, despite the said fact, in place of vacating the house, the proceedings were contested since 17.1.2006 till today i.e. year 2015 for 9 years and the defendants continued to violate the said judgment and decree with impunity. The said violation has to be dealt with iron hands. Therefore, I am of the view that the civil imprisonment for three months to the present revisionists was rightly awarded by the lower Court and upheld by the lower appellate Court. The prayer of the learned counsel for the revisionists for reducing the period of imprisonment also stands declined. Needless to say that now, the executing Court shall ensure that the possession of the decree-holders is restored.

The present revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

7.12.2015
sjks