

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No. 1975 of 2002 (O&M)

Date of decision: 20.04.2015

Dev Raj ... Petitioner  
versus  
Dinesh Kumar and others .... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

Present: Mr. M.L. Sarin, Senior Advocate with  
Mr. Nitin Sarin, Advocate for the petitioner.  
Mr. Samarth Sagar, Advocate for the respondents

**K.Kannan, J.**

The judgment debtor is revision petitioner before this court. Through the impugned order, the Executing Court ordered delivery of the property in Khasra No. 834 which was purported to correspond to Khasra No.4636 after consolidation. He also added that if there was any difficulty experienced, the property must be identified with reference to the description as found in the decree. The operative portion which purports to create a difficulty is reproduced herein:

“In case any problem is faced on locating the property then assistance can be taken from the description of the property mentioned in the copy of the judgment and decree sheet dated 30.03.1981 (EX.DH5) and (Ex. DH/12) respectively which was a suit claiming possession of the suit property after removal of the super-structure and material thereon.

“In the above mentioned judgment and decree, the property has been described as under:-

North: P.W. D. Road Mukerian Talwara.

South: Property of deceased Nikka Ram.

East: Plot of plaintiff now in possession of Chanda Singh.

West: Street and site of deceased Nikka Ram situated

in Talwara Township P.S. Hajipur.”

Learned senior counsel for the petitioner would argue that both the parties agreed at the execution stage that there had been consolidation proceedings and property in Khasra No. 4636 was comprised in Khasra No. 834 to an extent of 3 marlas. That is the property which could have been delivered and Kanungo has already noticed that there was building but not in the possession of judgment debtor but with someone else. That was when the decree holder wanted to make an altered stand seeking for delivery of the property in Khasra No. 4636 which was a pre-consolidation number and wanted to prove that the consolidation had been denotified. The senior counsel would urge that the application filed by the decree-holder was got dismissed as withdrawn and therefore, the application has been filed for delivery as per the pre-consolidation. The counsel would argue that if it is denotified it will operate only prospectively and reassignment of khasra No.4636 as khasra No. 934 cannot be rendered ineffective in terms of the judgment of this court in *Jagir Singh Vs. State of Punjab, AIR 1969 PLJ 87*. The counsel would also contend that the reference to alleged denotification was not even pressed before the Executing Court and having made such a prayer but allowed it to be dismissed as withdrawn, he cannot bring up such a plea now.

I find the entire argument to be needlessly confounded by reference to consolidation proceedings and the fact of alleged denotification. Learned senior counsel even submitted in open Court that if the property in Khasra No. 4636 as it existed before admitted consolidation was identified and delivered to him he will have no objection. If there was a consolidation and Khasra No.4636 became Khasra No.834, to an extent of 3 marlas, the decree holder is entitled to the same. If the denotification would not render new Khasra numbers invalid by virtue of its prospective operations, the property would still to be Khasra No.834. If the denotification however were to restore the old khasra numbers, the property would be Khasra No.4636. If the

learned senior counsel would concede that he will have no objection to the delivery of the property in Khasra No.4636 which was the pre-consolidation number, issue of whether the property to be delivered was to be with reference to the khasra number post-consolidation or pre-denotification assumes no difference. The Executing Court, therefore, did what was appropriate. The identity of the immovable property is invariably best done with reference to the boundaries. That is precisely the reason why the Civil Procedure Code sets out under Order 7 Rule 3 that description of immovable property shall be with reference to boundaries and revenue entries. The direction given by him which we have extracted above that the property will be delivered in Khasra No.834 which is post-consolidation khasra number, but, the description of property will be as decreed with reference to boundaries was a manner of determining the identity. The Executing Court's order was perfect and justified and there is no scope for intervention.

With these observations, the civil revision petition is dismissed.

20.04.2015

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**(K.KANNAN)**  
**JUDGE**