

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

**ESA No.19 of 2014 (O&M)
Date of Decision:13.02.2015**

Bhajan Singh

. . . . Appellant

Vs.

Jaswant Singh and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Ms.Sushma Chopra, Advocate,
for the appellant.

RAKESH KUMAR JAIN, J. (ORAL)

This appeal is filed by the decree-holder against the orders passed by both the Courts below whereby objection filed by respondent No.6/Avtar Singh @ Satnam has been allowed.

In brief, the appellant filed a suit for permanent injunction against Jaswant Singh, Sucha Singh, Resham Singh, Lachhman Singh and Avtar Singh @ Satnam sons of Banta Singh; and Gurdip Singh son of Inder, all residents of Village Poonian, Tehsil Shahkot, District Jalandhar.

The said suit was decreed for permanent injunction restraining the defendant not to interfere in the peaceful possession of the plaintiff/decreed-holder over the land measuring 50//12(2-2), 14(8-0), 17 (7-6) without any due course of law. The decree had attained finality. Thereafter, the appellant filed an application under Order 21 Rule 32 of the Code of Civil Procedure, 1908 [for short 'the Act'] for execution of the decree. In that proceeding, Avtar Singh filed an application for discharging him on the ground

that he was not a party to the suit. The said application was allowed on 26.7.1996, which was not challenged by the decree-holder. Again there was an application filed for execution and Avtar Singh also filed an application for discharging him on the ground that he was not a party to the suit. The said application was again allowed on 24.4.1999 and was not challenged by the decree-holder/appellant. This is the third time the execution application was filed in which Avtar Singh and Resham Singh filed their objection on the ground that the decree is being executed against them though they were not the party to the suit. Both the Courts below have recorded a concurrent finding of fact that Avtar Singh cannot be proceeded against in the application filed under order 21 Rule 32 of the CPC because there is no decree of permanent injunction against him as held earlier twice by the Court on 26.7.1996 and 24.4.1999 and those orders were not challenged by the decree-holder before the higher forum.

Learned counsel for the appellant has submitted that in fact Satnam Singh is alias Avtar Singh and has drawn the attention of the Court to the voter list of the Panchayat of the year 2013 in which at Sr. No.35, Avtar Singh is mentioned as s/o Banta Singh and at Sr. No.37, Satnam Singh is mentioned as s/o Banta Singh where as there is no other son of Banta Singh except Satnam Singh, therefore, he is the same person against whom the decree has been passed.

I have heard learned counsel for the appellant and after perusing the record, am of the considered opinion that there is no merit in her arguments because the voter list would not determine the question as to whether Avtar Singh and Satnam Singh are the

same person specially when this issue has already been decided twice against the present appellant on 24.7.1996 & 24.4.1999 while discharging Avtar Singh from his liability of being proceeded against under Order 21 Rule 32 of the CPC holding that he was not a party to the suit and those orders have also attained finality and have not been challenged by the appellant before the higher forum.

In view thereof, I do not find any merit in the present appeal and the same is hereby dismissed.

13.02.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**