

Civil Revision No. 1074 of 2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 1074 of 2016

Date of Decision : 11.02.2016

State of Haryana

...Petitioner

Versus

Jaidev and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) *Whether Reporters of the local papers 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?*

Present: Mr. Ashok Singla, Additional Advocate General,
Haryana.

Paramjeet Singh Dhaliwal, J.(Oral)

Instant civil revision has been filed under Article 227 of the constitution of India for modifying the order dated 28.01.2016 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division) Ganaur.

Learned counsel for the petitioner has relied upon High Court Rules and Orders, Volume IV Chapter 7 Part 'J', which reads as under :-

“The procedure to be followed for rendering police assistance to the Civil Courts in the execution of warrants of arrest and distress or of warrants for the delivery of possession of immovable property shall be as under :-

‘The Civil Judge may seek the police assistance through the

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District Judge or Civil Judge (Senior Division), whosoever is available at the station, from the Commissioner of Police/Superintendent of Police in execution of the decree, on being satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation or on his behalf, or by any transferee, where such transfer was made during the pendency of the suit or execution proceedings.'

As per the High Court Rules and Orders, the Executing Court should have moved through District Judge or Civil Judge (Senior Division) to the Commissioner of Police/Superintendent of Police for providing police help to remove the resistance or obstruction, which may be caused by the judgment debtor or any other person at his instigation. The direction appears to be validly issued. The only deficiency is that the direction has been given directly to Deputy Superintendent of Police. It may be an inadvertent mistake on the part of learned Addl. Civil Judge(Senior Division). The Additional Civil Judge (Senior Division), who has the same powers as Civil Judge (Senior Division), is therefore, competent to issue such direction but in accordance with the relevant provisions of law.

Since, in the facts and circumstances of the case, the respondents have no role to play for providing police help, therefore, no notice is required to be issued to the respondents.

In view of the above as well as in view of High Court

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Rules and Order, Volume IV, Chapter 7, Part 'J', the District Magistrate, Sonapat, being over all incharge of administration, is directed to appoint some Duty Magistrate for execution of the warrants, who shall ensure that the warrant is executed.

Disposed of in above terms.

February 11, 2016.
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(PARAMJEET SINGH DHALIWAL)
JUDGE