

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1552 of 2016 (O&M)

Date of Decision.29.02.2016

Allah Bux (since deceased) through LRs

.....Petitioner

Vs.

Sheodan and others

.....Respondents

Present: Mr. Vipul Aggarwal, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of 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?

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K. KANNAN J. (ORAL)

1. The revision petition is by the judgment debtor complaining that the further process in execution is made failing to note that notice in execution was not granted to him. It is also the further contention that there exists a residential house in the property and that cannot be dispossessed by virtue of provisions under Section 60(ccc) CPC. The third contention is that the petitioners were minors at the time of the suit and the decree will not bind them.

2. Each one of the contentions raised by the petitioner is untenable and cannot be legally supported.

3. There is no requirement in law for notice in execution if the decree is passed after contest. It is the admitted case that the case for injunction brought at the instance of the plaintiff, was fought upto the Supreme Court and the defendant has lost upto the Supreme Court. If execution petition is filed within two years from the date of final

disposal, no notice is necessary under any of the provisions of the CPC.

4. The contention that there is a residential which cannot be proceeded against by virtue of Section 60 (ccc) is equally meaningless, for the said provision will apply only in case of attachment in respect of immovable property and will have no bearing to suit for recovery of possession or to suit for injunction complaining of disobedience and the judgment debtor has a contention to make that he is in possession of residential house. That possession will be subject to the decree itself and provisions of Section 60(ccc) cannot be invoked at all.

5. The contention that the petitioners were minors and the decree obtained will not bind them cannot be supported in the light of the provisions of Order 32 CPC which sets out a procedure for suit by or against minors and a decree obtained against minors where a lawful guardian is appointed is fully binding on the quondam minors on attaining majority. If the decree itself has not been set aside by any process known to law as being one not properly prosecuted on proof of gross negligence of the guardian or the next friend, the decree is fully binding on the quondam minors.

6. The order already passed is maintained and the revision petition is dismissed.

(K. KANNAN)
JUDGE

February 29, 2016
Pankaj*