

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

CR No.169 of 2016

Date of Order: 12.01.2016

Parvinder

....Petitioner

Versus

Chandgi Ram

....Respondent

CORAM : HON'BLE MR.JUSTICE DARSHAN SINGH

Present : Mr. Parveen Kumar Rohilla, Advocate
for the petitioner.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Darshan Singh, J

Present revision petition has been preferred against the order dated 18.11.2015 passed by the learned Addl. Civil Judge (Sr. Divn.), Samalkha vide which the application/objections filed by the petitioner in the execution petition have been dismissed.

As per averments in the objection petition, the petitioner had constructed his house at Village Jaurasi Khalsa, Tehsil Samalkha in the year 2006-07. The house of Chandgi Ram-decree holder (for short "DH") is situated in front of the house of the applicant and there exist a street in between their

houses, which is about 12-14 feet wide. The said street was brick-lined by the Gram Panchayat in the year 2011. The case filed by the DH was decided on 08.2.1999 in which he had produced the site plan, which was different from the present site plan. Now, there is no 'Than' in the street. The Gram Panchayat has brick-lined the street on the place of 'Than'. The DH has not raised any objection to that. It was also pleaded that the execution application is time barred as the execution petition has been filed after a lapse of 12 years from the date of judgment and decree dated 08.2.1999. It was further pleaded that the DH by raising construction of 'Dry Grass' room in 2009-2010 had covered the area of street. It was further pleaded that no 'Than' was situated anywhere in the street and without clear measurement, the order dated 17.7.2015 cannot be executed.

The said objection was contested by the DH.

I have heard learned counsel for the parties and carefully perused the paper book.

Learned counsel for the petitioner contended that the petitioner has constructed the house in the year 2006-07 and the house of the DH is situated in front of his house and there exist a street between their houses. He contended that no 'Than' exist at the site in dispute. He further contended that the DH wants to get the house of the petitioner demolished in the garb of the execution of the decree. There are no clear measurement and demarcation with respect to the land of the DH. In the absence of said measurement/demarcation, the execution of the decree

is not possible. Even the site plan filed by the DH in the execution petition is different from the site plan filed by him in the suit. Thus, learned counsel for the petitioner contended that the objection petition filed by the petitioner has been wrongly dismissed by the learned Executing Court.

I have duly considered the aforesaid contentions. Learned Executing Court has categorically mentioned that the execution petition was actually filed on 06.5.2006 i.e well within 12 years from the date of passing the decree but the same was inadvertently dismissed while dismissing the application filed under Order 9 Rule 13 CPC vide order dated 17.11.2009, so the plea raised by the learned counsel for the petitioner that the execution petition was barred by limitation, is devoid of merit.

Learned Executing Court has further observed on the basis of record that by raising construction, the judgment-debtors have reduced the width of the street to 4 feet. The said portion was encroached upon despite passing of the order of status quo dated 17.12.1992.

It is not disputed that the present petitioner is the son of Randhir Singh son of Dulia-judgment debtor No.1. It is also not disputed that the objection petition filed by the judgment debtors on 10.1.2013 on the similar grounds was already dismissed by the learned Executing Court so the present objection petition filed by the petitioner appears to be a move to obstruct the execution of the decree.

Consequently, the objection petition filed by the

petitioner has been rightly dismissed by the learned Executing Court and this Court does not find any illegality in the impugned order calling for any interference by exercising the supervisory powers under Article 227 of the Constitution. Resultantly, the present petition being devoid of merit is hereby dismissed.

January 12, 2016
manoj

(Darshan Singh)
Judge