

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

CR No. 2147 of 2016 (O&M)

Date of decision: 21.03.2016

Sukhdev Singh and others

... Petitioners

versus

Pargat Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. K.S. Dhillon, Advocate for the petitioners.

K.Kannan, J. (ORAL)

The defendants/judgment debtors who have suffered a decree have sought for adjudication on every issue which was already the subject of adjudication before the trial Court and the Appellate Court. The attempt is now to bring certain facts which were sought to be produced before the Appellate Court through an application under Order 41 Rule 27 CPC. The Court declined to receive additional evidence and dismissed the appeal as well as the application. The Executing Court is now allowing for new issues to be framed on the basis of objections taken denying the plaintiff's title to the property. The conduct of the Presiding Officer in framing the issues for fresh adjudication betrays lack of understanding of the jurisdictional ambit of an Executing court and far exceeds the duty of the Executing Court. The order is ex-facie wrong and I will not detain the case by having to merely allow for the objections to be considered by framing issues. All the issues which are framed are ordered to be deleted. The order passed is set aside.

The District Judge shall re-assign the work to some other

judge within the same territorial jurisdiction who is competent to hear and dispose of the execution petition. The case is ordered to be withdrawn in exercise of jurisdiction under Article 227 of the Constitution with direction to the District Judge to place it before some other Court who will dispose of the execution petition on the basis of the decree and consider the tenability and otherwise of the objections and pass a summary order. The objection by the judgment debtor as regards the executability of the decree has to be summary and it cannot be detained by fresh adjudication on title.

The order copy is directed to be sent by the Registry to the respondent through the counsel before the courts below. The respondent is at liberty to approach this Court for any clarification or modification, if he feels aggrieved of any aspect of the case as not fully brought before me.

The civil revision petition is allowed with the above directions.

(K.KANNAN)
JUDGE

21.03.2016
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