

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

CR No. 2667 of 2016

Date of decision :16.05.2016

**Mam Raj (since deceased) through his legal
representatives**

..... Petitioners

Versus

Divisional Forest officer, Yamuna Nagar and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Vinay Pandey, Advocate
for the petitioners.

- 1. Whether Reporters of Local papers may be allowed to see the judgment?Yes.**
- 2. To be referred to the Reporters or not?Yes.**
- 3. Whether the judgment should be reported in the Digest?Yes.**

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred by the petitioners-DH against the order dated 19.11.2015, passed by the learned Civil Judge (Junior Division), Yamunanagar at Jagadhri, vide which the execution petition filed by the petitioner has been disposed of.

2. Learned counsel for the petitioner contended that the petitioners-DH has filed the suit for injunction restraining the respondents from cutting trees standing in his land. The

said trees were cut during the pendency of the suit. However, the respondents have deposited a sum of Rs. 96,135/- in the trial Court subject to decision of the suit. Thus, he contended that the petitioner-DH is entitled to the aforesaid amount. But, the learned Executing Court has wrongly fixed the amount of Rs. 75,000/- to be paid by the JD to the DH. He contended that the petitioner had never consented for any such settlement. He contended that even Sh. Ajay Shandilya, Advocate was not the counsel for the DH in the execution petition and had no authority to enter into any compromise. Thus, he contended that the impugned order is illegal.

3. I have duly considered the aforesaid contentions.

4. There is no material on record to show that Sh. Ajay Shandilya, Advocate was not the counsel for the petitioner in the execution petition. Annexure P-1 is the copy of the judgment passed by the learned Civil Judge (Junior Division) Jagadhri in Civil Suit No. 282 of 2000, decided on 04.12.2006, out of which the present execution petition has arisen. Copy of that judgment shows that Sh. Ajay Shandilya, Advocate was the counsel for the plaintiffs. Similarly, Annexure P-2 is the copy of the judgment of the learned Appellate Court dated 07.01.2008. That also shows that Sh. Ajay Shandilya, Advocate has appeared as counsel for the appellants. Thus, Sh. Ajay Shandilya, Advocate has been representing the petitioners in the civil suit as well as in appeal. Annexure P-3

is the copy of the execution petition. It does not show the name of the counsel. Similar is the position in Annexure P-5 i.e. reply filed to the objection petition by the petitioners. The petitioner has not placed on file the certified copy of the Vakalatnama filed before the learned Executing Court to show that Sh.Ajay Shandilya, Advocate was not the counsel for the petitioner/DH before the learned Executing Court. The presence of Sh. Ajay Shandilya, Advocate has been marked for the DH in the order dated 07.10.2015 and the impugned order dated 19.11.2015, which shows that Sh. Ajay Shandilya, Advocate has been representing the petitioner in the learned Executing Court.

5. The order dated 07.10.2015 clearly shows that petitioner/DH and the JD's had appeared before the learned Executing Court and DH had stated that they were ready to accept the amount fixed by the Court. Thereafter, the Court has fixed the amount of Rs. 75,000/- to be paid by the JD's to the DH and both the parties have shown their consent for the said amount. The said amount of Rs. 75,000/- has been paid by the JD-respondents vide cheque dated 19.11.2015 drawn on Axis Bank Yamunanagar. Learned counsel for the petitioner has admitted at bar that the said amount of Rs. 75,000/- has already been withdrawn by the petitioners, which shows that they were consenting party to the settlement. If, they have any reservation/objection to the said

settlement, there was no compulsion for them to withdraw the amount, which was not to their satisfaction. Thus, petitioners are estopped to challenge the settlement arrived at between the parties before the learned Executing Court and to contend that less amount has been paid.

6. Consequently, I do not find any illegality in the impugned order dated 19.11.2015 passed by the learned Executing Court.

7. Thus, the present revision petition having no merits, is hereby dismissed.

16.05.2016

S.khan

(DARSHAN SINGH)
JUDGE