

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

CR No. 3302 of 2014 (O&M)

Date of decision: February 15, 2016

Seema

...Petitioner

Versus

Balwinder Singh and others

...Respondents

**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?

Present: Mr. Ranjodh Singh Sidhu, Advocate,  
for the petitioner.

Mr. Karamjit Singh, Advocate,  
for respondents No. 1, 2, 3 and 4.

**K. KANNAN, J. (Oral)**

CM No. 12959 CII of 2015

For the reasons stated in the application, delay in filing the application for restoration is condoned.

CM No. 12960 CII of 2015

For the reasons stated in the application, the revision is restored to its original file and asked the counsel to argue the main case and then proceed to decide the same.

Main case

1. It is a case of third party making objection at the stage of execution that she has herself filed an independent suit to seek for assertion of her right and for injunction against the present respondents from laying any claim to the property. She has sought by means of objection petition in

the execution petition that the delivery shall not be effected till her own suit is decided. The executing court dismissed the same.

2. A third party objector has two avenues of redressal of his grievance against a person who execute a decree. He may file an objection contending that he has independent right to the property and his right should be adjudicated in the manner contemplated under Order 21 Rule 101 of the Civil Procedure Code. Any decision taken by the executing court in such a situation will be treated as if it were a decree under Order 21 Rule 103 of the Civil Procedure Code. If the third party, on the other hand, has independently instituted a suit, it shall be open for her to secure an order of injunction in the Court before which she has filed a suit against the respondents from interfering his possession by proving what are usually to be done in an application under Order 39 Rules 1 and 2 of the CPC. The petitioner in her independent suit will prove her prima facie case, her possession and a better right over the defendants to hold her possession and secure the relief for injunction. If such a prayer is made through an application in the suit instituted by the petitioner, the Court will consider the same.

3. A third party cannot have a resort to an independent suit and also prevent the executing court from executing the decree. If she has exercised an option of not merely stating an objection and inviting the executing court to render an adjudication that could take place in the manner contemplated under Rule 101 as set out above, she cannot seek from the executing court not to execute its own decree. It is bound to do so. Further process in execution may continue but the petitioner will have an liberty of pressing for relief in her own suit, in the manner referred to above.

4. The impugned order is maintained but subject to the observations made above.

5. The revision petition is dismissed.

**February 15, 2016**  
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**(K.KANNAN)**  
**JUDGE**