

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3796 of 2012

Date of Decision: 21.04.2016

Lichmi Devi and Others

... Petitioner(s)

Versus

Dharam Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioner(s).

Mr. Karan Bhardwaj, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 9.5.2006, passed by learned Civil Judge (Junior Division), Karnal, whereby the execution petition was disposed of and challenge is also to the order dated 19.7.2011, whereby application for review of the order dated 9.5.2006 was dismissed.

Relevant facts of the case that execution petition was filed by one Rama alias Ram Narain and vide order dated 3.10.2005, learned

Civil Judge (Junior Division), Karnal had directed the judgment debtor to demolish the construction, if any raised over khasra No. 321. Against the said order, judgment debtor filed revision petition i.e. Civil Revision No. 5575 of 2005 before this Court with the averments that the decree holder had agreed to accept ₹ 20,000/- for the area on which the judgment debtor had raised the construction of double storey house and the said amount was paid by judgment debtor to decree holder on 31.12.2001 in the presence of government officials vide Annexure R3. The said order dated 3.10.2005 was set aside by this Court and directions were given to the Court below to record evidence of the parties with regard to transaction of ₹ 20,000/- (Annexure R3) and the Court below decided the controversy after framing of issues and recording the evidence.

Present petition has been filed by legal heirs of Rama alias Ram Narain challenging the said order on the ground that infact no compromise was ever effected between the parties and no payment was received by the petitioners but the respondents bent upon to demolish the building which was constructed over the land of petitioners as they are influential persons and the orders dated 9.5.2006 (Annexure P9) and dated 19.7.2011 (Annexure P10) are liable to be set aside.

Learned counsel for the respondents submitted that the Court below has already recorded the evidence and after appreciation thereof, order dated 9.5.2006 (Annexure P9) was passed and there was no question of review of the said order and as such subsequent application for review of order dated (Annexure P9) was also dismissed

vide order dated 19.7.2011 (Annexure P10).

Having considered the submissions made by learned counsel for the parties and appraisal of record of the case, this Court is of the considered view that the only point involved is whether any compromise was infact effected between the parties or any payment was received by the petitioners. The Court below has framed issues and recorded evidence of both the parties. Respondent challenged that he is owner of the land measuring 6½ feet and judgment debtors had constructed double storey of the house on the said portion. The Court below placed reliance upon the statements of AW.2 Subhash Chand, AW.3 Bir Singh, Kanungo and PW.4 Natha Singh who admitted that demarcation of the land was done in their presence and compromise was effected between the parties and the judgment debtors had paid ₹ 20,000/- to the decree holder on 31.12.2001. As regard to demarcation of land, the same was done in the presence of Halqa Kanungo, Patwari and Naib Tehsildar. The only dispute with regard to payment of ₹ 20,000/- to the decree holder in respect of land measuring 6½ feet on which judgment debtors had constructed double storey house and the Court below passed the orders on the basis of evidence available on the file and present petition is devoid of any merit.

With the aforesaid observation, present petition is hereby dismissed.

(Shekher Dhawan)
Judge

April 21, 2016

"DK"