

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

CR No.4220 of 2015
Date of decision : 25.10.2016

Karam Chand and another

...Petitioners

Versus

Smt. Bishno Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Vipin Mahajan, Advocate for the petitioners.

Mr. Rai Singh Chauhan, Advocate for respondent Nos.2 to 4.

AMIT RAWAL, J. (Oral)

The petitioners-Decree Holder are aggrieved of the dismissal of the application filed under Order 21 Rule 32 CPC seeking execution of the judgment and decree dated 23.05.1997 which had attained finality as per the judgment and decree of the lower Appellate Court dated 05.04.2006.

Mr. Vipin Mahajan, learned counsel appearing on behalf of petitioners-Decree Holder submits that respondents violated aforementioned injunction order, granted by the trial Court as per the aforementioned decree on 20.01.2010. In this regard, the aforementioned application was filed. In order to prove the aforementioned fact, the judgment and decree were produced on record, much less, witness namely Tariro Ram PW5 was examined, but the Courts below have erroneously dismissed the application whereas, there has been defiance to the aforementioned judgment and decree, whereby respondent-Judgment Debtor have been restrained from interfering into the peaceful possession. This aspect has not been examined by the

Courts below, therefore, there is illegality and perversity.

Mr. Rai Singh Chauhan, learned counsel appearing on behalf of respondent Nos.2 to 4 submits that order under challenge is perfect, legal and justified. The petitioners-applicants have failed to lead the evidence, much less, prove the alleged occurrence of 20.01.2010, thus, rightly so petition has been dismissed, thus, urges this Court for affirming the findings under challenge.

I have heard learned counsel for parties and appraised the paper book and of the view that there is no merit in the submission of Mr. Vipin Mahajan, for, khasra girdawri was clincher to determine whether the plaintiff or somebody else reaped the crop, much less, with regard to the possession. Even statement of AW1 was recorded in the year 2011 wherein he submitted that sugarcane crop was cut 2-3 years back, whereas alleged incident is of the year 2010.

In my view, petitioners-applicants have not been able to prove the defiance of the judgment and decree referred above, therefore, the Courts below has rightly dismissed the application.

I do not intend to differ with the findings rendered by the Court below.

Accordingly, present revision petition is dismissed.

25.10.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No