

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

CR No.4732 of 2013 (O&M)
Date of decision : 12.01.2016

Falia

...Petitioner

Versus

Ved Parkash and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Rajender Chhokar, Advocate for the petitioner.

Mr. N.D. Achint, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner-Judgment Debtor is aggrieved of the order dated 29.07.2013, whereby application seeking stay of the execution proceedings, has been dismissed.

Mr. Chhokar, learned counsel appearing on behalf of petitioner-Judgment Debtor submits, that vide judgment and decree dated 21.08.2002, the plaintiffs were declared to be co-sharers and since they were found to be in exclusive possession, defendants (therein)-petitioner had been restrained from interfering into the peaceful possession and parties were relegated to seek the partition. The petitioner has filed the partition proceedings which

have erroneously got stayed at the behest of the Decree Holder. The petitioner is illiterate person and does not know about the case law and accordingly moved an application. Till the suit land is not partitioned, the execution proceedings cannot proceed further. In support of his contention, he has relied upon judgment rendered by this Court between the same parties titled as Phalia Vs. Rajinder Pal Singh & ors. in Civil Revision No.6332 of 2013 decided on 29.09.2015, whereby plaintiffs had been given liberty to seek partition of the joint khata in accordance with law.

Mr. N.D. Achint, learned counsel appearing on behalf of respondent No.1 submits that judgment referred to by Mr. Chhokar pertains to the execution of the judgment and decree dated 24.05.2001, whereas in the present case, the judgment and decree sought to be executed is 21.08.2002 passed in Civil Suit No.465/92/2001 & said judgment and decree had attained finality and, therefore, the petitioner cannot be permitted to seek stay of the execution proceedings.

I have heard learned counsel for the parties and appraised the paper book.

The operative part of the judgment and decree dated 21.08.2002, reads thus:-

“As a result of my findings on forgoing issues, the suit of plaintiff succeeds and the same is hereby decreed partly to the fact that the plaintiff is co-owner/co-sharer in joint possession over the land comprising in rect. No.50, killa No.2(8-0), 3/1 (4-0) and further the plaintiff is co-owner/co-sharer in exclusive possession of land comprising in rect. No.60, killa No.12/2 (2-12), 13(8-0) and 18(8-0) situated in the revenue estate of Village

Kherla Tehsil Sohna Distt. Gurgaon. The defendant are hereby restrained from interfering in exclusive possession of the plaintiff over the land comprising in rect. No.60, killa No.12/2 (2-12), 13(8-0) and 18(8-0) except by way of partition. The decree dated 22.5.89 Ex.P1 is not binding upon the rights of the plaintiff. Remaining relief declined. A decree sheet be made accordingly and file be consigned to record room.”

The execution petition has been filed by invoking the provision of Order 21 Rule 32 of the Code of Civil Procedure. Petitioners sought stay of execution proceedings on the premise that certain another judgment and decree passed between the same parties wherein, parties have been relegated to seek the partition. There may be several litigation between the parties to the lis. The relief sought in the application as noticed in the impugned order is for staying of the execution proceedings. The judgment and decree dated 21.08.2002 granted the injunction in favour of the respondent-plaintiff- Decree Holder are at liberty to seek execution in case of any alleged violation. The manner and mode adopted by Judgment Debtor is to confuse the matter by referring to other decrees. Since judgment and decree dated 21.08.2002 had attained finality, the plaintiffs are at liberty to seek execution in case of any alleged violation.

I do not find and illegality and perversity in order dated 29.07.2013.

Order cannot be said to have been passed without jurisdiction.

Revision petition is dismissed.

12.01.2016

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**(AMIT RAWAL)
JUDGE**