

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5320 of 2016 (O&M)

Date of decision:09.09.2016

Kishana Ram

... Petitioner

Vs.

Bhagwan Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Satbir Gill, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-judgment debtor is aggrieved of the impugned order dated 05.05.2016 (Annexure P-2) passed in execution application filed under Order 21 Rule 32 of Code of Civil Procedure (hereinafter referred to as "CPC") seeking execution of the judgment and decree dated 23.10.2012, whereby, he has been restrained from forcibly interfering and dispossessing the plaintiff.

Mr. Satbir Gill, learned counsel appearing on behalf of the petitioner-judgment debtor submits that such type of orders cannot be passed in execution application. The Local Commissioner's report has erroneously been accepted by the trial Court to form an opinion regarding the violation of the aforesaid judgment and decree, whereas, such report has been prepared at the back of the petitioner and the Court below should have ordered for fresh demarcation.

I have heard learned counsel for the petitioner-judgment debtor and appraised the paper book.

For the sake of brevity, the impugned order dated 05.05.2016 reads thus:-

“Local Commissioner report considered. The counsel for the JD stated that Local Commissioner report does not reveal clear picture as even the DH has illegally encroached upon some area of the JD. The executing Court at this stage does not have to look into the encroachment made by DH. On the basis of Local Commissioner report, warrant of possession be issued in favour of DH for 05.07.2016.

The executing official shall very clearly demarcate the area of the DH and remove any encroachment over the same and hand over the vacant possession to him.”

A perusal of the aforesaid order itself reveals that despite the report of Local Commissioner, the Executing Court had ordered that the executing official shall clearly demarcate the area of decree holder and remove any encroachment over the same. The petitioner-judgment debtor can participate in the aforementioned demarcation and could have brought to the notice of the official regarding any execution of the excess area but not in the manner and mode.

In view of the aforementioned observations, I do not intend to differ with the findings rendered in the impugned order. The decrees of the

Court should have respected and regarded and should not be flouted.

No ground is made out for interference in the impugned order.

Accordingly, the revision petition stands dismissed.

September 09, 2016

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No