

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

CR No.553 of 2016

Date of decision : 15.03.2016

Dhanraj and others

...Petitioners

Versus

Sunita 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. R.S. Tacoria, Advocate for the petitioners.

Mr. S.S. Dinarpur, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

Parties are aggrieved vis-a-vis possession of the disputed property, part of the Civil Court decree dated 08.10.1992 and as well as order dated 10.09.2010 passed by this Court in CR No.705 of 2009, whereby the petitioner was directed to hand over the possession to the respondents within a period of 15 days of the order.

Mr. R.S. Tacoria, learned counsel appearing on behalf of petitioners submits that petitioners suffered statement dated 07.11.2015 that they have handed over possession and shall not interfere into the possession of the respondent-Decree Holder, yet, the Court issued show cause notice by

sending them behind the civil imprisonment for not handing over the possession. At the best, the Executing Court should have resorted for taking the possession by providing police help to the respondent-Decree Holder and not in the manner and mode as has been adopted and thus prays for setting aside of the order.

Mr. Tacoria, during the course of arguments submits that suit filed at the instance of Judgment Debtor shall be withdrawn except by mother, though there is no interim order.

Mr. S.S. Dinarpur, learned counsel appearing on behalf of respondent-Decree Holder submits that though as per the order, this Court vide order dated 10.09.2010 imposed a cost of Rs.25,000/- and the said cost has been deposited, but the petitioner-Judgment Debtor has not handed over the possession. It is in these circumstances, the trial Court issued show cause notice. He further submits that trial Court vide order dated 15.12.2015 appointed Local Commissioner to ascertain the possession of the parties and the Local Commissioner submitted his report dated 24.12.2015. Copy of the order and report has been passed during the course of hearing and thus prays that petitioners are unnecessarily taking the benefit of the statement actually not handed over the physical possession despite having suffered statement and thus prays for dismissal of the petition.

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

It would be apt to reproduce the statement (Annexure P-4) suffered on behalf of Judgment-Debtor which reads thus:-

“Statement of 1 Dhanraj 2 Daryao Singh 3. Ashok Kumar

*All sons of Sh. Chet Ram s/o Sh. Sheoji r/o Vill Rajwara
Bawal Tehsil Bawal Distt. Rewari*

*It is stated that the case Sunita Vs. Dhanraj
regarding khewat No.600 khatoni No.735 rect. No.8/1,
Killa No.9/1 (3-19) khewat No.9151 khatoni No.1081 rect.
No.81 Killa No.7(4-0), 8(4-7) total 8 kanal 7 marlas. We
do not have any possession and we have vacated the
possession. Out of total land 12 kanals 6 marlas we do not
have any possession and now possession has been vacated.*

RO&AC

Sd/- ACJ (SD)

7.11.15”

The dispute arises whether in pursuance to the statement, possession has been handed over or not. The local Commissioner Report says that shops are lying vacant without roof and there is wide growth of trees and bushes. Report of Local Commissioner is silent vis-a-vis the possession of the Decree Holder and Judgment Debtor. Be that as it may, but the fact remains that once the report of the Local Commissioner is there, there is no reflection of the same in the impugned order which necessitated the Court to pass the onerous order by issuing show cause notice calling upon the petitioner to why they should not be sent behind the bar. Such an order in my view is not sustainable, accordingly, matter is remitted back to the trial Court to pass afresh order on the execution application after considering the report. In case it is found that the petitioner-Judgment Debtor has not handed over the possession, police help may be provided to the Decree Holder to take over the possession and also take action in consequence to the order passed by this Court vide order dated 10.09.2010.

Impugned order is set aside.

Accordingly, revision petition is disposed of in the
aforementioned terms

Executing Court is directed to decide the controversy as
expeditiously as possible within a period of 45 days from the date of receipt
of certified copy of the order.

15.03.2016

pawan

**(AMIT RAWAL)
JUDGE**