

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

**C.R. No.6775 of 2016
Date of Decision.07.10.2016**

Nasib Singh (now deceased) through LRsPetitioner

Vs

Manohar LalRespondent

Present: Mr. K.K. Garg, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-judgment debtor is aggrieved of the impugned order whereby the objection against the application seeking execution of the judgment and decree dated 14.12.2005 whereby restraint order had been issued against him from forcible dispossession, has been dismissed.

Mr. K.K. Garg, learned counsel for the petitioner submits that regular second appeal against the aforementioned judgment and decree is stated to be pending in this Court. For alleged dispossession, in essence, of the alleged violation of the decree dated 14.12.2005, the remedy, if any, for the respondent-decree holder was to move an application under Section 144 CPC but not to move an application under Order 21 Rule 32 CPC.

He further submits that the parties are litigating since 1981 and the possession was already taken i.e. before the decree could be passed. The order of the Executing Court directing the petitioner-judgment debtor to hand over possession is erroneous and perverse, thus, urges this Court for setting aside the order under challenge.

I have heard learned counsel for the petitioner, appraised the

remedy. Against the execution petition, an application for stay should have been filed in the second appeal stated to be pending in this court but not through objection. The decree is still holding field and it has to be regarded and respected. Taking of possession is not disputed by the petitioner-judgment debtor, rightly so, the court below restored the possession.

For the foregoing reasons, I do not intend to differ with the order under challenge as the same is based upon correct principles of law, much less, cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

October 07, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No