

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

**CR No.736 of 2016
Date of decision:03.02.2016**

Sajjan Kumar and others ... Petitioners

Vs.

State of Haryana and others ... 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. Shamsher Singh Patter, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-decree holders are aggrieved of the order dated 20.10.2015 (Annexure P-1), vide which the execution application filed under Order 21 Rule 32 of the Code of Civil Procedure, has been dismissed.

Mr. S.S.Patter, learned counsel for the petitioner-decree holders submits that vide judgment and decree dated 26.11.2010 passed in Civil Suit No.17-C of 2009 titled Sajjan Kumar etc. vs. State of Haryana etc, the respondents were directed to ensure the proper discharge of rainy water, as well as, daily used water of the locality, with a further direction to ensure that the said water shall not enter into the plaintiff's orchard for the reason that it does not have a proper discharge. It was further directed that passage shall also be

maintained without any obstruction and no rainy water is being discharged in the field of decree holders, therefore, owing to the aforementioned injunction, an execution application, aforementioned, was filed.

The Executing Court in order to ascertain the alleged breach of the judgment and decree, appointed the Local Commissioner. Since there was already a report of Local Commissioner, there was no occasion for appointing the second Local Commissioner, thus, dismissal of the execution application suffers from illegality and perversity. In fact, defendants have factually committed the breach.

I have heard learned counsel for the petitioner-decree holders and appraised the paper book.

It is a matter of record that petitioner-decree holders did not object to the appointment of second Local Commissioner. This fact has been noticed by the trial Court. As per the report of the Local Commissioner and photographs, Executing Court found that at that moment, no dirty/rainy water or water of daily use had been accumulated on the spot or in the fields of plaintiffs/decree holders. Passage had been well maintained without any obstruction and no rainy water was being discharged in the fields of decree holders. In view of the aforementioned facts, the decree holders are at liberty to seek execution as and when breach would be caused.

With the aforementioned observations, impugned order is affirmed and no ground is made out for interference.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

February 03, 2016
savita