

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8078 of 2011(O&M)
Date of decision : April 1, 2016

Nikka Ram(deceased through L.Rs)

..... Petitioner

Versus

Sohan Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. S. Chauhan, Advocate
for the petitioner.

Mr. Vikram Singh, Advocate
for the respondents.

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

Amit Rawal, J (oral).

The petitioner-judgment debtor is aggrieved of the impugned order dated 3.12.2011 whereby the objection viz-a-viz execution of the judgment and decree dated 16.12.1998 has been dismissed.

Learned counsel appearing on behalf of the petitioner submits that petitioner-plaintiff had filed a suit for permanent injunction for restraining the defendants from interfering in any manner in the peaceful possession, enjoyment and use of plot forming part of Khasra No. 1183/2, Building No. 1681/1. In the aforementioned suit, the counter claim was filed. However, the trial

court dismissed the suit for permanent injunction and decreed the counter claim. The petitioner was directed to hand over the possession. The appeal filed against the same was also dismissed.

He further submits that the objections have erroneously been dismissed on the ground that there is no aks shajra in respect of the suit land. The land of particular khasra number cannot be ascertained and therefore the counter claim was proved on fraud. Moreover in the matter relating to panchayat, the question of title cannot be decided by a civil judge in view of Section 13 of Punjab Village Common Lands (Regulation) Act, 1961.

Learned counsel appearing on behalf of the respondents-decree holders submits that the decree has become inexecutable, no objection viz-a-viz jurisdiction of the civil court, much less maintainability of the counter claim was raised. Even if so raised viz-a-viz counter claim, the same would have been rejected as the trial court cannot go behind the decree. Prior to filing of these objections, similar objections were taken by Kewal Krishan son of Nikka Ram Judgment debtor which were also dismissed, thus prays for dismissal of the revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that the objections are not maintainable, much less sustainable, for the reason that the decree aforementioned has become final and the executing court cannot go behind the decree. No evidence has been lead to place on record that the land was of panchayat, therefore, aid of Section 13 of Punjab

Village Common Lands (Regulation) Act, 1961 cannot be taken.

The petitioner has made an attempt to thwart the execution of the decree for the last five years, therefore, I intend to impose costs of ₹10,000/-.

The revision petition is dismissed with costs of ₹10,000/- to be paid to the respondents-defendants, failing to pay the costs, liberty is granted to the respondents to move an appropriate application.

(AMIT RAWAL)
JUDGE

April 1 , 2016
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