

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

C.R. No.7863 of 2015 (O&M)

Date of Decision.11.11.2016

Karnail Singh (deceased through LRs)

.....Petitioner

Vs

Karamjit Singh and others

.....Respondents

Present: Mr. N.S. Diwana, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-decree-holder is aggrieved of the dismissal of the petition filed under Order 21 Rule 32 CPC.

Mr. N.S. Diwana, learned counsel appearing for the petitioner submits that the suit was partly decreed vide judgment and decree dated 7.8.2009, however, there was breach of the aforementioned injunction decree, insisting the filing of the application in the aforementioned proceedings. Even the local commissioner was appointed, who submitted his report (Annexure P-2), but the trial Court has erroneously dismissed the application and without noticing the other aspect, heavily relied upon the report of the local commissioner. The report of the local commissioner has not even been proved in accordance with law, therefore, there is gross illegality and perversity.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that the allegation in the execution petition was that after the judgment and decree, there was a fresh construction.

However, the report of the local commissioner did not indicate any fresh

construction. Photographs would not prevail upon the report of the local commissioner who was appointed with the consent of the parties and submitted his report. No objection against the report of the local commissioner has been taken, much less, he had also proved the site plan.

For the foregoing reason, I am of the view that the order dismissing the execution petition by the Court below is perfectly legal and justified. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 11, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No