

Civil Revision No.853 of 2016

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

Civil Revision No.853 of 2016

Date of decision: 25.02.2016

Kuldeep Singh and another

....Petitioners

Versus

Amrit Pal

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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 ?

Present: - Mr. Gurcharan Dass, Advocate, for the petitioners.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Instant revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 05.12.2015 passed by learned Civil Judge (Junior Division), Ludhiana, whereby the objections filed by the petitioners/judgment-debtors, have been dismissed.

Brief facts of the case are that petitioner No.1 filed civil suit No.161 dated 14.06.2007 against the respondent. In the said civil suit, respondent filed counter claim. Civil suit filed by petitioner No.1 was dismissed in default vide order dated 23.12.2010 by the trial Court and in the counter claim filed by the respondent, petitioner was proceeded against ex parte vide order dated 23.12.2010. Petitioners filed applications for setting aside the orders dated 23.12.2010. The application for restoration of the suit, dismissed in default, was

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dismissed vide order dated 18.02.2013. The counter claim filed by the respondent was decreed ex parte vide judgment and decree dated 20.04.2013 with costs for specific performance of the agreement dated 10.06.2004 with consequential relief of mandatory injunction and permanent injunction. In pursuance of the judgment and decree dated 20.04.2013, respondent filed execution application. In the execution application, petitioners filed objections on 22.02.2014. Vide order dated 05.12.2015, objection petition filed by the petitioners has been dismissed by the Executing Court. Hence, this revision petition.

I have heard learned counsel for the petitioners and perused the record.

Learned counsel for the petitioner vehemently contended that findings recorded by the Executing Court are based on mere surmises and conjectures. Learned counsel for the petitioners further contended that Executing Court has not taken into consideration the fact that against the judgment and decree dated 20.04.2013 appeal is pending, therefore, the judgment and decree has not attained finality.

I have considered the contentions raised by learned counsel for the petitioners.

Perusal of the record shows that vide judgment and decree dated 20.04.2013, passed in the counter claim filed by the respondent, respondent/counter claimant was directed to deposit the remaining amount in the Court within two months and petitioners/defendants were directed to get the sale deed of the property in dispute executed in favour

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of the respondent within a period of one month after the deposition of balance amount by the respondent. In pursuance of the judgment and decree dated 20.04.2013 respondent deposited the balance sale consideration on 29.05.2013. Instead of complying with the judgment and decree dated 20.04.2013, petitioners filed the objection petition, which has rightly been dismissed by the Executing Court. Moreover, petitioners failed to bring on record any stay granted by the appellate Court against the judgment and decree dated 20.04.2013.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.

(Paramjeet Singh Dhaliwal)
Judge

February 25, 2016
R.S.