

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

Civil Revision No.8889 of 2015

Date of decision : 05.01.2016

Jagdish Chand Dua and Anr.

.....Petitioners

Versus

Kehar Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Krishan Singh, Advocate for petitioners.

DARSHAN SINGH, J.

The present civil revision petition under Article 227 of the Constitution of India has been preferred against the order dated 18.11.2015 passed by learned Civil Judge (Junior Division), Bilaspur, vide which the objections filed by the petitioners in the execution proceedings have been dismissed.

2. The respondent-decree holder filed a suit for permanent injunction against the petitioners/judgment debtors restraining them from obstructing the respondent from cutting and removing the poplar and

eucalyptus trees from the suit land. The said suit filed by the respondent/decree holder was decreed by learned trial Court vide judgment and decree dated 23.07.2014. The respondent filed an application under Order XXI Rule 32 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') for enforcement/execution of the decree dated 23.07.2014. The petitioners filed objections to the said execution petition, which have been dismissed by the learned executing Court vide impugned order dated 18.11.2015.

3. Learned counsel for the petitioners contended that in the garb of the decree, the respondent wants to cut the trees standing in the land of the petitioners-judgment debtors. He contended that before allowing the respondent to cut the trees, the trees should be got demarcated, so that the trees standing in the land of petitioners may not be cut.

4. I have duly considered the aforesaid contentions.

5. It is the settled principle of law that the executing Court cannot go behind the decree. The impugned order reveals that in the objection petition filed by the petitioners it was alleged that the demarcation during the suit was obtained by the decree holder by removing the Burji from the pucca point. Meaning thereby in the execution petition the petitioners-judgment debtors are challenging the findings in the decree based on the demarcation report produced in evidence in the suit which is not legally permissible as it would amount to going behind the decree.

6. The plea raised by learned counsel for the petitioners that

the trees should be again demarcated before allowing the respondent decree holder to cut those trees is again a plea which will virtually amount to re-look the findings of the learned trial Court in the decree as this exercise was already conducted during the pendency of the suit.

7. Thus, I do not find any illegality in the impugned order calling for interference by this Court by exercising the powers under Article 227 of the Constitution of India.

8. Resultantly, the present revision petition has no merits and the same is hereby dismissed.

05.01.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**