

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RA No.283-CII of 2016 in
CR No.5285 of 2016
DATE OF DECISION: November 7,2016

Om Parkash

...Applicant

versus

Risal Singh and others

...Respondents

CR No.7392 of 2016
DATE OF DECISION: November 7,2016

Om Parkash

...Applicant

versus

Risal Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.P.S.Khurana, Advocate for the applicant.

AMIT RAWAL, J.

By this common order, the two aforesaid matters are
decided together as the facts are inter-connected and inter-
related.

The prayer in the present application is for review of the order dated 4.10.2016 whereby this Court had dismissed the revision petition.

The attempt being made in the present review application tantamounts to re-hear the revision petition on the same grounds, which had been the grounds of the revision petition. The another revision petition bearing CR No.7392 of 2016 has been filed in anticipation that in case order dated 4.10.2016 is reviewed, then direction has been sought to the trial Court to decide the objection Annexures P.3 and P7, stated to be pending.

Mr.P.S.Khurana, learned counsel appearing for the applicant submits that grave injustice has been caused to the petitioner-judgment debtor. The identity of the property is in dispute. In fact, the suit property is Johar and suit was filed in a representative capacity. The decree-holders had no personal interest in the suit property. The judgment debtor had made a specific and categorical statement before the Civil Court as well as executing Court that he has no objection if any part of his house falls within khasra No.145 be demolished or removed. The aforementioned statement was consciously made by the petitioner-judgment debtor

that his house falls in khasra No.144. This has been duly established with the aid of demarcation report dated 23.9.2016 of the competent authorities i.e. Assistant Collector Grade-II Beri. Thus, the decree is nullity in law and unexecutable because the suit property vests in the Municipal Committee, Beri. All these factors have to be gone into by this Court, therefore, the order under challenge dismissing the revision petition vis-à-vis the filing of the objection against the demarcation of the property should be reviewed.

I have heard leaned counsel for the petitioner and am of the view that the demarcation report dated 14.9.2016 is in consonance with the site plan already brought on record. The appointment of Local Commissioner was the satisfaction of the petitioner-judgment debtor. The executing Court cannot go beyond the decree. Still the petitioner-judgment debtor wants to prolong the execution of the decree passed way back in 2005, I find that there is no scope for re-hearing the present review application. Under the garb of review application, the petitioner-judgment debtor wishes to re-argue the matter which is not permissible in law.

Dismissed.

As a result of dismissal of the review application, no cause of action survives in the revision petition filed in anticipation contemplating that in case the order under challenge is reviewed, then the direction has been sought for the trial Court to decide the objection Annexures P.3 and P7, is also dismissed.

Before parting with this order, I would like to draw an inference in the light of aforesaid discussion that the petitioner judgment debtor has made every possible efforts to prolong the execution of the decree passed way back in 2005. The conduct of the petitioner judgment debtor has put this Court to spend its precious time for the present review application which has already been adjudicated by this Court in the main revision petition vide order dated 19.8.2016. For this lapse, the petitioner judgment debtor should be burdened with some reasonable costs.

Accordingly, the petitioner is burdened with costs of Rs.10,000/-.

November 7,2016
KD

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

