

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL REVISION No. 1555 of 2017 (O&M)
DECIDED ON: MAY 22, 2017

IBRAHIM AND OTHERS

.....PETITIONERS

VERSUS

CHAO KHAN (SINCE DECEASED) THROUGH LRS & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Mohammad Arshad, Advocate
for the petitioners.

JASPAL SINGH, J

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioners have sought the quashing of order dated February 14, 2017 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Division), Ferozepur Jhirka, Mewat Nuh, whereby, an application for staying the execution petition moved by petitioners/JDs has been dismissed.

2. While assailing the impugned order, it has been argued with vehemence by learned counsel for the petitioners/JDs that the same is illegal, arbitrary, unreasonable, perverse and contrary to the established principles of law. In fact, respondents were the co-owners/mortgagors of agricultural land bearing rectangle No. 3 Killa No. 4 (6-14), 7/1 (7-4), rect. No.15 Killa No. 18/1 (4-14), total

measuring 18 kanal 12 marla situated in the revenue estate of Village Aklimpur Ferozepur, Tehsil Ferozepur Jhirka, District Mewat.

3. The said land was mortgaged with possession by Madara, the great grandfather of the respondents, who was maurosi owner at that time, in favour of Thadi Ram, the predecessor-in-interest of petitioners/defendants vide mortgage deed dated January 24, 1890 for a sum of ₹575/-. The respondents/decreed holders filed civil suit bearing No. 223 of 2010 before learned Additional Civil Judge (Sr.Division), Ferozepur Jhirka for declaration and permanent injunction which was decided in favour of respondents/decreed holders vide preliminary decree dated January 29, 2013 and final decree dated October 09, 2014. Thereafter, appeal was filed by the petitioners, which was dismissed vide judgment and decree dated October 01, 2013. Similarly, appeal preferred against the final decree was also dismissed on December 24, 2014. During the pendency of execution petition, petitioners filed objection petition submitting that the suit land was mortgaged and the mortgage money was ₹575/- i.e. Sahi Sikkey but decree holder/respondents have deposited current currency of ₹575/- on March 06, 2013 and did not evaluate the old currency.

4. This Court has given an anxious thought to the afore-said submissions made by learned counsel for the petitioners but find the same to be without any legal or factual substance.

5. A glance at the impugned order as well as file transpires that decree holder/respondents filed a suit for declaration and permanent injunction against the JDs which was decreed vide preliminary decree dated January 29, 2013.

Subsequently, final decree dated October 09, 2014 was passed. Though, the JDs

preferred appeal(s) against the preliminary decree as well final decree but those were dismissed by learned trial Court vide orders dated October 01, 2013 and December 24, 2014, respectively.

6. As far as the submission of learned counsel for the petitioners that only current currency of ₹575/- has been deposited by decree holder towards the mortgage money and the mortgage amount should have been deposited equal to the Sahi Sikkey by converting it into value of current currency paid at the time of mortgage in the year 1890, but the description of “Sahi Sikkey” does not figure in the decree dated October 09, 2014, as alleged in the application. Moreover, no such question was asked at the time of passing of decree, which is under execution. Thus, the impugned order cannot be faulted with and this Court is of the considered view that the same does not suffers from any illegality or perversity and is absolutely in consonance with the settled proposition of law.

7. In the light of what has been discussed above, this Court does not find any merit in the instant revision. As such, it stands dismissed.

8. No order as to costs.

**JASPAL SINGH
JUDGE**

**MAY 22, 2017
sham**

Whether speaking/reasoned ***Yes/No***

Whether reportable ***Yes/No***