

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

CR No.3480 of 2017 (O&M)
Date of decision : 13.11.2017

Balraj Singh

...Petitioner

Versus

Rajinder Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rose Gupta, Advocate for the petitioner.

Mr. Pankaj Mehta, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Judgment Debtor is in revision petition against the order directing the demolition of the boundary wall.

The suit between the parties was finally decided by the learned Additional Sessions Judge, Hisar on 15.09.2010. The operative part of the judgment, reads as under:-

“15. The plaintiffs have proved themselves to be the owner in possession of the suit plot in dispute by virtue of sale deed Ex.P1. Therefore the impugned judgment and decree of the learned lower court is hereby set aside. The suit of the plaintiff is decreed with costs i.e. the defendant/respondent is permanently restrained from the

interfering in the possession of the plaintiffs over the plot in dispute and from raising any construction over the plot in dispute. The decree sheet be prepared accordingly. The lower court record alongwith the copy of this judgment be sent back. Appeal file be consigned to the record room after due compliance.”

The Decree Holder filed execution petition under Order 21 Rule 32 read with Section 151 CPC for execution of the decree on the ground that the Judgment Debtor has constructed a wall.

Learned counsel for the petitioner has vehemently argued that in the absence of any finding of the Executing Court that the wall was constructed after the decree was passed, no order could be passed.

I have heard the learned counsel for the parties.

In the present case, the decree was not only to the effect that the Judgment Debtor is restrained from raising any construction over the plot in dispute but the Court had declared that the Judgment Debtor is permanently restrained from interfering in the possession of the plaintiff as the plaintiff i.e. Decree Holder was declared to be owner in possession of the suit property on the basis of the sale deed Ex.P1.

Now any interference either before the decree or after the decree would not make any difference. Once the Decree Holder has been declared to be the owner in possession of the property and the plaintiff does not wish to retain any construction thereon, the Judgment Debtor has no locus standi to object thereto. The Court has not passed any order against the Judgment Debtor for non-compliance of the decree. The Court has only ordered that the boundary wall be demolished.

Taking into consideration the aforesaid facts, there is no scope for interference in the present revision petition.

Revision petition is dismissed.

13.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No