

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

CR No.4131 of 2016
Date of decision : 06.12.2017

Shri Ram and others

...Petitioners

Versus

Murti Mandir Shri Nar Singh Ji Maharaj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate for the petitioners.

Mr. Vikram Singh, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The Judgment Debtors are in revision petition against the order dated 12.05.2016, issuing the warrants of possession by way of demolition of the structure present at the spot.

A judgment and decree for permanent injunction was passed in favour of the Decree Holder on 16.09.1991 and the defendants-Judgment Debtors were restrained from uprooting the trees and raising any construction over the suit property.

It is the allegation of the Judgment Debtors that in the first execution petition, the parties had entered into a settlement. The terms of the settlement are extracted as under:-

“1. That in the execution, the date is fixed for today.

2. *That this compromise is being affected between the Pehlad Decree holder and Matadin in this execution.*
3. *That on the land in dispute, the possession of the Judgment Debtors No.1 to 4 are in capacity of Gair Moursi Tenants and from this land Matadin cut one tree and for that Rs.1000/- has been given by the Matadin J.D. to the Pehlad Decree Holder.*
4. *That the trees standing in the land can be cut down by the JDs and decree holders as per their requirements and if trees are sold then the half value would be taken by the decree holder and half would be taken by the Judgment debtor.*
5. *That the houses which are constructed by the Judgment debtors in the suit land will be remain in the same condition. Which are constructed prior to the decree. They can repair the same.*
6. *Hence, the compromise has been affected in the execution petition and the execution be consigned to the records.”*

Learned counsel has further submitted that another execution petition was dismissed in default on 07.04.2007. He has further pointed out that while filing objections in the present execution petition, the petitioners had pointed out in para No.5 that earlier execution petition was disposed of after having been compromised.

From the reading of the order, it is clear that the learned Executing Court has not even considered this aspect of the matter. The Court has failed to consider what is the effect of compromise arrived at between the parties during first execution petition. Still further, it is not in dispute that decree was passed on 16.09.1991, whereas the present

execution petition appears to have been filed on 24.12.2015.

Learned counsel for the respondents has contended that the Judgment Debtor had raised the construction after the compromise was arrived at between the parties and the Local Commissioner was appointed who had confirmed the same.

Taking into consideration these facts, the impugned order passed by the Executing Court is set aside. Revision petition is allowed.

The Executing Court is directed to re-decide the objections filed by the Judgment Debtors keeping in view the observations made above.

Parties through their counsel are directed to appear before the Executing Court on 21.12.2017.

06.12.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No