

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

CR No. 4562 of 2017

Date of Decision: 04.9.2017

SUNITA AND ANOTHER

-PETITIONERS

VS

SAT NARAIN

-RESPONDENT

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. V.K. Rana, Advocate,  
for the petitioners.

Mr. Malkeet Singh, Advocate,  
for the respondent.

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**RAJ MOHAN SINGH, J.**

{1}. In this revision petition, petitioners have assailed the order dated 09.05.2017 passed by Additional District Judge, Jalandhar vide which appeal filed by the present petitioners was dismissed against the order dated 20.05.2015 passed by Civil Judge (Junior Division), Jalandhar, dismissing the objections filed by the petitioners.

{2}. A suit for mandatory injunction filed by the respondent directing the defendant-petitioner No.1 to deliver the vacant possession of the portion of the house was decreed vide judgment and decree dated 25.09.2014 with costs and the defendant-petitioner No.1 was directed to hand over the vacant

possession of the suit property within two months from the date of passing of the judgment and decree by the trial Court, failing which liberty was given to the plaintiff-respondent to take possession of the property by means of execution.

{3}. Defendant-petitioner No.1 unsuccessfully challenged the aforesaid judgment and decree in appeal and the same was dismissed vide judgment and decree dated 25.02.2016 passed by Additional District Judge, Jalandhar. Thereafter, execution was filed by the decree holder-respondent against the defendant-petitioner No.1 for taking possession by way of warrants of possession of the suit property.

{4}. In the execution proceedings, objections were filed by the defendant-petitioner No.1 for herself and on behalf of her minor child namely Nitin Kumar. The said objections were dismissed by the Executing Court vide order dated 20.05.2015. The only objection taken by the judgment debtor was that the minor child of Dharinder was not made party to the suit proceedings and the execution was liable to be dismissed on the ground of mis-joinder and non-joinder of necessary parties. The objections were dismissed by the Executing Court and the said order was upheld in appeal by the Additional District Judge, Jalandhar on 09.05.2017.

{5}. It has come on record that the plaintiff-respondent

had purchased the plot in question in the year 1997 and thereafter, constructed three rooms, kitchen, store, verandah and toilet by availing loan facility from the Bank.

{6}. Defendant-petitioner No.1 was married to the son of the respondent namely Dharminder Singh, who died on 09.10.2009. At that time, defendant-petitioner No.1 along with her husband was living separately in the village. In the year 2005, son of the petitioner requested the respondent-father to give one room and kitchen in the self-acquired house. The respondent accommodated his son. Electricity meter and another documents remained in the name of the respondent throughout. Husband of the defendant-petitioner No.1 was accommodated only as licensee.

{7}. After the death of Dharminder Singh on 09.10.2009, defendant-petitioner No.1 broke open the locks of the room and forcibly occupied the same. A complaint was made to the police and thereafter, legal notice was issued to defendant-petitioner No.1 on 28.10.2010.

{8}. During the suit proceedings, an application was filed by the defendant-petitioner No.1 under Order 1 Rule 10 CPC for impleading the minor as a party to the proceedings but the said application was dismissed by the trial Court on 10.09.2014 and the said order was never assailed by the defendant-petitioner

No.1 in any forum and the same became final between the parties. Thereafter, suit was decreed on 25.09.2014 and the said decree was maintained by the lower Appellate Court on 25.02.2016.

{9}. The execution came to be filed during pendency of the first appeal before the lower Appellate Court. The only objection of the defendant-petitioner No.1 was that the minor child was not made party and therefore, judgment and decree was not executable. Even the Executing Court wrote a separate request to the District and Sessions Judge, Jalandhar for providing police help for executing the judgment and decree.

{10}. The Hon'ble Apex Court in **S.R. Batra vs Smt.Taruna Batra, (2007) 3 SCC 169** held that the wife could claim right of residence only in respect of shared household. A shared household would only mean the house belonging or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. The house which is exclusive property of mother-in-law, father-in-law cannot be said to be a shared household, entitling the daughter-in-law to claim any right of residence therein.

{11}. The aforesaid view was followed by this Court in **Hamina Kang vs. District Magistrate (U.T.) Chandigarh, 2016 (1)RCR (Civil) 976** and **Vimlaben Ajitbhai Patel vs. Vatslaben**

**Ashokbhai Patel, 2008 (2) RCR (Criminal) 699.**

{12}. In view of aforesaid legal position, the house which was purchased by the plaintiff-respondent in the year 1997 cannot be termed to be a shared household by the defendant-petitioner No.1. The objection with regard to non-impleadment of minor child was specifically dealt with by the trial Court in the application under Order 1 Rule 10 CPC and the same was dismissed on 10.09.2014.

{13}. This Court vide order dated 04.08.2017 directed both the parties to be present in Court for today in order to visualize any possibility of amicable resolution of dispute between the parties, keeping in view their relations. After due interaction with the parties, I find that there is not even remote chance of reconciliation between the parties.

{14}. Faced with the situation, I see no illegality in the impugned orders passed by the Courts below. This revision petition is found to be totally bereft of merits and the same is, accordingly, dismissed.

04.9.2017  
*jyoti*

**(RAJ MOHAN SINGH)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No