

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

CR No. 5537 of 2017(O&M)

Date of decision: 30.8.2017

Mohd. Bashir and anotherPetitioners

VERSUS

Taj Mohd. and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. T.P. Singh, Advocate for the petitioners.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 23.05.2017 passed by the Additional Civil Judge (Senior Division), Malerkotla whereby application under Order 21 Rule 32 of the Code of Civil Procedure, 1908 (in short 'CPC') for sending the petitioners (respondents therein) to civil imprisonment and attachment of their properties for disobeying the judgment and decree dated 17.02.1994 passed by the Sub Judge, IInd Class, Malerkotla in suit No.492 dated 16.07.1991 **Mohd. Ibrahim Vs. Moham Hanif and another** has been allowed and land of the petitioners is ordered to be attached.

Counsel for the petitioners has submitted that the petitioners have not violated the judgment and decree dated 17.02.1994 in any manner whatever, therefore, the Court below has wrongly accepted application of the respondent and ordered attachment of land of the petitioners.

I have heard counsel for the petitioners, perused the paper-book particularly the order impugned.

The Court on the basis of pleadings of the parties framed issues detailed in para 4 of the impugned order, permitted the parties to adduce evidence in support of their respective claims and after having heard counsel for the parties, recorded findings against the petitioners while deciding issue No.1 against them. In para 16 of the order, the Court has relied upon judgment of this Court **Ram Singh and another Vs. Shiv Narain and others, 2006(4) Civil Court Cases 518** wherein it has been held that in an injunction suit if there is decree restraining interference in peaceful possession and JD is claiming to be in possession of suit land prior to passing of decree and also after passing of decree, this fact indicates that the JD is not ready to obey the decree passed by the civil Court. It has been held by the Court below that as the respondents are still alleging their possession over the suit property even before passing of the judgment, it clearly shows that the respondents do not want to comply with the decree and are interfering in possession of the decree-holders over the land owned by them.

Counsel for the petitioners has not disputed preposition of law laid down in **Ram Singh and another's case** (supra) nor has cited any contrary law. Under the circumstances, findings recorded by the Court below cannot be faulted with, warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed.

AUGUST 30, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no