

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

CR No.647 of 2017.

Date of Decision: 27.02.2017.

Manjot Kaur

....Petitioner.

VERSUS

Mohabat Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. S.S. Sodhi, Advocate for the petitioner.

SNEH PRASHAR, J.

The petitioner is aggrieved of the orders passed by learned Civil Judge (Junior Division), Gurdaspur in an execution petition titled “Mohabat Singh vs. Swaran Singh and others”. The orders assailed by the petitioner are : (i) order dated 14.12.2016 vide which her application under Order I Rule 10 of the Code of Civil Procedure (for short, “CPC”) for impleading her as party to the execution petition was dismissed; (ii) order dated 06.01.2017 vide which warrant of possession qua the suit property under Order XXI Rule 32 CPC was issued; (iii) order dated 16.01.2017 by virtue of which execution of the warrant of possession with police help was ordered; and (iv) order dated 17.01.2017 vide which the objection petition and the application for withdrawal of warrant of possession filed by the petitioner were dismissed.

The submissions made by Mr. S.S. Sodhi, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner argues that the petitioner is in possession of the suit property as per her legal right but was not impleaded as party to the suit filed by respondent-decree holder Mohabat Singh. The decree dated 09.09.2003 passed in the suit is not binding on the petitioner when she was not a party to the suit. She moved an application for being impleaded as party to the execution proceedings and also filed an objection petition but her application as well as objection petition was dismissed. The decree holder intends to execute the decree against her whereas the same had not been passed against her.

The arguments of learned counsel for the petitioner are devoid of merit. Perusal of the order dated 17.01.2017 reveals that in the suit for mandatory injunction filed by respondent-decree holder Mohabat Singh, Jaswant Kaur – mother of the petitioner was one of the defendants. It is also mentioned by learned executing Court that Jaswant Kaur, mother and Kuljot Singh – brother of the petitioner had appeared in the execution proceedings. The decree was challenged by the respondents-judgment debtors by filing first appeal as well as regular second appeal before this Court, but the same were dismissed. During pendency of the suit, at no point of time, the petitioner came forward to assert her right, if any, in the suit property. The execution petition is pending since 17th May, 2011. It is not her case that she had no knowledge of the impugned decree. She appeared and filed objection petition only after her mother and brother appeared during execution proceedings and the objections/application filed by them were dismissed.

Despite there being a decree in favour of respondent-decree holder since 09.09.2003, which has become final between the parties, he is waiting for the same to be executed. Apparently, the application as well as

the objection petition had been filed by the petitioner only with a motive to delay execution of the decree. The proceedings conducted by learned executing Court are in due process of law. There is no illegality or perversity in any of the order passed by the said Court and hence, the present petition is dismissed.

(SNEH PRASHAR)
JUDGE

27.02.2017.
jitender sharma

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

Whether Reportable : **Yes/ No**