

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

118

CR No.7767 of 2016

Date of decision: 16.11.2017

Sukhwinder Singh

..... Petitioner

Versus

Raj Singh Head Master

..... Respondent

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Iqbal Singh Mann, Advocate  
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab  
for the respondent.

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**ANIL KSHETARPAL, J. (ORAL)**

Petitioner is a decree-holder. Suit filed by the petitioner was decreed vide judgment and decree dated 31.08.2012. Operative part whereof reads as under:-

*“The Jamabandies and Akas Sijra reveal the existence of passage bearing no.156. There is no evidence to rebut the evidence led by the plaintiff. The existence of the pahi is also shown in the photographs placed on record. The evidence led by the plaintiff has remained un rebutted. Therefore the suit of the plaintiff is decreed. The defendants are restrained from changing the nature of the suit property falling in passage no.156 connecting the Firni.”*

Petitioner filed an application under Order 21 Rule 32 alleging violation of the decree. During the pendency of the aforesaid, petitioner filed an application under Order 26 Rule 9, CPC for appointing a revenue official to measure the land and report to the Court about the existing

position. Learned Court has dismissed the application on the ground that applicant-petitioner is trying to fill the lacunas. In the considered opinion of this Court, once there is a decree passed by the Court which has become final, it has to be given effect. The dispute in the present case is with regard to availability of the passage. While decreeing the suit, the Court has ordered directing the defendants not to change the nature of the suit property falling in passage No.156 connecting in the Firni. In the execution petition, there is no question of collecting evidence. In the execution petition, the Court is only to execute the decree. In the present case, the application was filed under Order 21 Rule 32. In an application under Order 21 Rule 32, decree-holder makes a complaint to the Court that the decree has been violated or not being complied with.

In such circumstances, it is the duty of the Court to ensure compliance of the same. Such compliance could be ensured only when the Local Commissioner-cum-revenue official visits the spot and submits a report to the Court.

Taking into consideration these facts, the impugned order dated 07.10.2016 is set aside. The application filed by the decree-holder is allowed.

Learned Executing Court would appoint a revenue official to demarcate the area and report about the existing position.

Revision petition is allowed.

**16.11.2017**  
Dinesh Bansal

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No