

CR No.8440 of 2016 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.8440 of 2016 (O&M)
Date of decision: 13.7.2017**

Deepika and others

...Petitioners

Versus

Mohinder Pal Satija

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sunil K. Sahore, Advocate
for the petitioners.

Dr. Ashwani Bansal, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 22.11.2016 (Annexure P-6) passed by the learned executing court, judgment-debtors have approached this Court by way of present revision petition filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that although objections have been filed by the petitioners-judgment debtors on earlier date of hearing, i.e. 30.7.2016, which is clear from a bare reading of the order dated 30.7.2016 passed by the learned court below, at page 88 of the paper book, yet the learned court below failed to notice this fact in the impugned order dated 22.11.2016.

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However, it has gone undisputed before this Court that instead of filing his reply to the objections, decree holder-respondent had deposited the requisite amount before the learned executing court, which had already been withdrawn by the respondents-judgment debtors.

So far as the decree passed by the learned trial court is concerned, it has attained finality against the petitioners, because their regular second appeal is pending before this Court only qua interest part. It is also not in dispute that there is no interim order in favour of the petitioners passed by this Court in the regular second appeal filed by them. Having said that, this Court feels no hesitation to conclude that the learned executing court committed no error of law, while passing the impugned order dated 22.11.2016, while issuing warrant of possession against the petitioners and the same deserves to be upheld.

Learned counsel for the petitioners has fairly conceded that petitioners withdrew the amount deposited by the respondent-decree holder during the pendency of the present revision petition.

Be that as it may, now it is an admitted position between the parties that decree holder-respondent has already deposited the requisite amount before the learned executing court, which has already been withdrawn by the petitioners-judgment debtors. Once it is so, then the judgment debtor-petitioners are duty bound to hand over vacant possession of the suit property to the respondent without any further delay. It is so said because whatever shall be the order passed by this Court in the regular second appeal filed by the petitioners, parties shall be bound by the said order. It is also made clear that handing over the possession by the petitioners-judgment debtors to the decree holder-respondent shall also not

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prejudice to the rights of either of the parties, which would be decided by this Court in the pending regular second appeal filed at the instance of the petitioners. In this view of the matter, no fault can be found with the impugned order and the same deserves to be upheld.

During the course of hearing, despite making his best efforts, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

13.7.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No