

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

**CR No.8500 of 2015(O&M)  
Date of Decision: 01.11.2017**

Surinder Kumar

.....Petitioner

Versus

Mangal Singh

... Respondent

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

Present:Mr. Bal Krishan Mehta, Advocate  
for the petitioner.

Ms. Sheena Khanna, Advocate for  
Mr. H.P.S. Ishar, Advocate  
for the respondent.

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**RAJ MOHAN SINGH, J.**

[1]. This revision petition has been preferred by the petitioner against the order dated 03.07.2015 passed by Additional Civil Judge (Senior Division), Guru Har Sahai to the extent of attaching the property of the judgment debtor for a period of one year without restoring the property to the petitioner.

[2]. A Civil Suit No.303 dated 27.07.2005 instituted by the plaintiff/petitioner was decreed vide judgment and decree dated 24.12.2008 against the judgment debtor Mangal Singh.

Defendant was restrained from interfering in the peaceful and lawful possession of the plaintiff/petitioner over the plot in dispute measuring 1 kanal comprised in rectangle No.204, killa No.26/2(1-0), khewat No.288, khatauni No.370 as per *jamabandi* for the year 2003-04 situated in village Guru Har Sahai Shamali. Judgment debtor remained unsuccessful in appeal, which was dismissed by the District Judge, Ferozepur on 21.11.2009.

[3]. Petitioner/decreed holder had gone abroad and when he came back to India and visited the suit property, he found that the respondent/judgment debtor had taken the possession of the rooms of the decreed holder and had also constructed thara upon the suit property and had laid green chaddar to give a colour of Dargah in the suit property.

[4]. Petitioner/decreed holder filed an application under Order 21 Rule 32 CPC for execution of the decree passed in the suit for permanent injunction and for taking lawful action against the wrongdoer/judgment debtor.

[5]. Vide the impugned order dated 03.07.2015, Additional Civil Judge (Senior Division), Guru Har Sahai has noticed that the judgment debtor had entered into forcible possession of the property. Issue No.1 in respect of disobedience of decree dated 24.12.2008 was decided in favour of the petitioner with

reference to material on record, which was suggestive of the fact that even judgment debtor Mangal Singh had filed a Civil Suit No.189 on 16.02.2010 against one Sucha Singh which was decided *ex parte* on 24.10.2013 in favour of Mangal Singh. In the said suit, Mangal Singh did not disclose the factum of decree dated 24.12.2008 passed by the trial Court and judgment and decree dated 21.11.2009 passed by the Lower Appellate Court in the present suit. In this way, an attempt was made to play mischief with the petitioner and also to keep the Court in dark by way of suppressing material facts.

[6]. The Court took notice of cross examination of the petitioner with reference to demarcation got conducted by him about 15 years ago where the Patwari had not entered the rapat of said demarcation wherein Mangal Singh was not in possession of the land in dispute. The case was filed when Mangal Singh had forcibly took possession of the land when the plaintiff was abroad. The statement of the petitioner, if any, in the context of Mangal Singh not in possession by way of any infraction of interpretation, can not lead to any such conclusion of denying restoration of possession of land to the petitioner. The Court below has only attached the property of the judgment debtor for a period of one year by presuming the fact that petitioner is in possession of the suit land. In the event of not

granting restoration of possession, re-possession of the land by the judgment debtor cannot ruled out. Even otherwise the restoration of possession of land is the normal consequence of acceptance of execution under Order 21 Rule 32 CPC.

[7]. In view of facts and circumstances of the case, it is made clear that in addition to the attachment of the property of judgment debtor for one year, there shall be restoration of possession of the suit property in favour of the petitioner.

[8]. With this modification, this revision petition is allowed.

01.11.2017

prince

**Whether Reasoned/Speaking**

**Whether Reportable**

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

**Yes/No**

**Yes/No**