

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.8207 of 2017

Date of Decision: 24.11.2017

Rameshwar (deceased)
through his legal representatives and another

. . . Petitioners

Versus

Beer Singh

. . . Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Ms. Sunita Nambiar, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioners.

Rajbir Sehrawat, J. (Oral)

Present petition has been filed challenging the order dated 19.10.2017, whereby the warrant of possession has been ordered to be issued by the Executing Court.

Brief facts of the case are that the plaintiff (respondent herein) filed a suit for possession and permanent injunction against the predecessor-in-interest of the present petitioners. The above said suit was decreed by the trial Court and the appeal was also dismissed. After the finality of the decree, the decree holder filed execution petition and notice was issued regarding the execution. Present petitioners appeared before the Executing Court and moved an application for bringing them on record as the legal heirs of Rameshwar, the original judgment debtor and their application was allowed and the matter was adjourned for filing the amended title, for 09.10.2017.

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It is pleaded that on 09.10.2017, the present petitioners did file the amended title before the Executing Court and sought one opportunity for filing the objections on their behalf. However, learned Executing Court has not granted them opportunity of filing objections, rather, the warrants of possession has been ordered to be issued for 28.11.2017 on 09.10.2017 itself.

Learned Counsel for the petitioner submits that since the petitioners have entered only as legal representatives of deceased/judgment debtor, therefore, they could not file the objections immediately. However, they prayed for only one opportunity before the Executing Court for this purpose. But the same also has not been granted by the Executing Court. Counsel for the petitioners submits that if they are granted one opportunity, they will file their objections.

In view of the facts and circumstances, in the present case, it is unjust that the petitioners have not been granted even one opportunity to file objections, as prayed for by them. The petitioners deserved to be granted one opportunity to file their objections..

The order passed by the Executing Court is hereby set aside and the petitioners are granted one opportunity to file objections on the next date of hearing before the Executing Court i.e. on 28.11.2017. Thereafter, the Executing Court shall proceed in the execution proceedings in accordance with law.

In view of the above, the present petition is allowed in the abovesaid terms.

[RAJBIR SEHRAWAT]
JUDGE

November 24, 2017.

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