

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

CR No.8208 of 2017

Date of decision : 27.11.2017

Ishwar and another

...Petitioners

Versus

Sardara Ram and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankit Chowdhri, Advocate for the petitioners

ANIL KSHETARPAL, J. (ORAL)

The Judgment Debtors are in revision petition against the order dated 20.09.2017 directing the police to provide police help to allow the Decree Holder to construct the alleged boundary wall over the suit property.

The plaintiff had filed a suit with the following relief:-

“Claim For: Suit for permanent injunction restraining the defendants from interfering in the actual, physical and peaceful possession of the plaintiff over land measuring 23'x104' shown by letters ABCD with read boundary wall forming part of khewat No.230; khatauni No.411; comprised of khasra No.52//23/2; in any manner whatsoever and restraining the defendants not to interfere in any manner whatsoever in raising the boundary wall by the plaintiff or any other construction at point A to D and hand in question, situate at Janak Ka Majra Bhamboli, Tehsil Jagadhri, Distt. Yamuna Nagar.”

It is not disputed before me that the aforesaid suit was decreed and the plaintiff was granted following relief:-

“It is ordered that the suit the plaintiff is decreed with costs. The defendants are permanently restrained from interfering in the actual, physical; and peaceful possession of the plaintiff in the suit property and also restrained from interfering in the construction work of the plaintiff in the suit property in any manner.”

Since the decree was not being permitted to be given effect to, therefore, the plaintiff filed an execution petition. In the execution petition, the defendants-petitioners filed objections.

The aforesaid objections have been ordered to be dismissed by the learned Executing Court.

I have heard learned counsel for the petitioners at length and with his able assistance gone through the documents filed alongwith revision petition.

Learned counsel for the petitioners has vehemently argued that if such boundary wall is permitted to be constructed, that would amount to the encroachment over the land owned by the Judgment Debtors and, therefore, the order passed by the learned Executing Court is erroneous.

A reading of the prayer made in the suit clearly shows that the plaintiff had pleaded that the defendants be restrained from interfering in any manner whatsoever in raising the boundary wall by the plaintiff or any other construction at point A to D.

The Executing Court cannot go beyond the decree. Once the decree has become final, the Court has to give effect thereto.

At this stage, the Judgment Debtors cannot assert that allowing construction to the plaintiff would result in encroachment over the land. Once the defendants had defended the suit on the same ground and the Court found against the defendants, the Judgment Debtors cannot be permitted to again take up this issue in the execution petition.

In view thereof, there is no ground to interfere with the present revision petition.

Revision petition is dismissed.

27.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No