

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

Civil Revision No.1038 of 2018 (O&M)
Decided on:-April 03, 2018.

Harjinder Singh and another

.....Petitioners.

Versus

Gurbachan Singh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Surinder Garg, Advocate
for the petitioners.

HARI PAL VERMA, J. (Oral)

CM No.3212-CII-2018

Prayer in this application filed under Volume 5 Chapter 1-C of the High Court Rules and Orders read with Order XXII Rule 4 CPC for impleading the legal heirs of deceased Kaur Singh, respondent No.7.

Learned counsel for the applicant-petitioners states that respondent No.7 Kaur Singh died on 26.05.2016 leaving behind his widow Jaswinder Kaur and three sons, namely, Bhupinder Singh, Harjinder Singh and Kulwinder Singh. He further states that two sons of the deceased, namely, Harjinder Singh and Kulwinder Singh are the petitioners in the present petition, whereas Jaswinder Kaur and Bhupinder Singh may be allowed to be impleaded as respondents No.7 (i) and (ii).

For the reasons stated in the application, the legal heirs of respondent No.7 Kaur Singh (deceased) are allowed to be impleaded as necessary parties.

The application stands disposed of.

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The petitioners have filed the present civil revision under Article 227 of the Constitution of India impugning the order dated 22.11.2017 passed by learned Additional Civil Judge (Senior Division), Baghapurana, whereby the objections filed by the petitioners in the execution proceedings were dismissed.

Learned counsel for the petitioners has argued that no doubt, the petitioners are the sons of judgment-debtor Kaur Singh, but in their individual capacity, they have filed a suit challenging the judgment and preliminary decree dated 03.08.2002 as well as the judgment and final decree dated 04.04.2014. Therefore, so long as the civil suit is pending adjudication, the execution proceedings are bound to be stalled/stayed.

He has further argued that in case the execution proceedings are not stayed, the very purpose of filing the civil suit would become infructuous and the respondents might demolish the house of the petitioners.

I have heard learned counsel for the petitioners.

The respondent-plaintiffs had filed a suit for possession by way of partition of the suit property, as detailed in the head note of the plaint, on 09.09.2000 against deceased-defendant Kaur Singh. The said suit was decreed vide judgment dated 03.08.2002 and a preliminary decree was passed in favour of the respondent-plaintiffs, wherein the plaintiffs No.1 to 5 were held entitled to 5/6 share, plaintiff No.6 to 1/27 share and defendant Kaur Singh to 7/54 share in the suit property. Thereafter, final decree dated 04.04.2014 was

passed in favour of the plaintiffs, wherein the report of Local Commissioner dated 13.12.2013 was made part of the final decree.

The plea of learned counsel for the petitioners that since the civil suit filed by the petitioners is pending, wherein the aforementioned decrees i.e. preliminary decree dated 03.08.2002 and final decree dated 04.04.2014 have been challenged and, therefore, the execution proceedings are bound to be stalled/stayed, cannot be accepted as mere filing of a suit is no ground to stall the execution proceedings. In case the petitioners succeed in the suit so filed by them, they would be entitled to get back the property in accordance with law. Thus, this Court finds that there is no illegality in the impugned order dated 22.11.2017 passed by the executing Court.

Accordingly, the impugned order dated 22.11.2017 passed by the executing Court is affirmed and the instant civil revision, being devoid of any merit, is dismissed.

April 03, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No