

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CR No.1412 of 2018 (O&M)  
Date of decision:04.04.2018

Shanta Kumari (since deceased) through LRs ... Petitioner

Vs.

Nand Lal and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. J.C.Malik, Advocate with  
Mr. K.L.Suneja, Advocate  
for the petitioner.

**AMIT RAWAL J. (Oral)**

The petitioner-decree holder is aggrieved of the impugned order dated 25.07.2016 seeking execution of the judgment and decree dated 25.09.2001.

Mr. J.C.Malik, learned counsel for the petitioner submitted that against the dismissal of the objections, judgment debtor has approached this Court, vide CR No.755 of 2012. This Court, vide order dated 16.12.2014 had granted the interim stay but during the pendency of petition, report was sought and on submission of report, it was found that they did not comply with the judgment and decree and revision petition was dismissed. The execution application proceeded, warrants of possession as indicated in the impugned order were issued which were returned back with report dated 30.03.2015 that a wall (1 X 66 feet) has been removed on 28.03.2015 in the presence of both the parties and door at point 'AB' was closed before 28.04.2015 but in fact, the door was not closed. The trial Court, in most

undue haste dismissed the application as the decree holder was not able to point out which part or exact part of the decree has not been complied with. He further submitted that an opportunity of hearing should have been granted to the petitioner for leading the evidence. The manner and mode in which the application was dismissed by granting the liberty to the petitioner to file a fresh suit was not correct appreciation of law.

I have heard the learned counsel for the petitioner, appraised the paper book and of the view that there is some force and merit in the submissions of Mr. Malik, with regard to the fact that Executing Court should not have relegated the petitioner-decree holder to file a suit but instead should have given the opportunity to lead evidence in support of the averments with regard to non-compliance of the judgment and decree. The Court should have examined the report of Baliff and on comparison of the same, should have pondered upon as to whether anything survives in the execution application or not. On glance of the order, it appears that decree had been complied with but grievance of the decree holder according to Mr. Malik, is still writ large.

Keeping in view the facts and circumstances of the case, I deem it appropriate to set aside the impugned order by remitting the matter back to the Executing Court to decide the execution application by affording an opportunity to the petitioner to seek assistance of the Court in ascertaining whether the judgment and decree sought to be executed has been complied with in letter and spirit.

Revision petition stands disposed of.

April 04, 2018

savita

(AMIT RAWAL)  
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No