

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

110

CR No.1632 of 2018

Date of decision:21.11.2018

Chunni Lal through LR

... Petitioner

versus

Suraj Bhan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Baldev Singh Badhran, Advocate,
for the petitioner
Mr.Rohit Sharma, Advocate,
for respondent no.1.

...

AMOL RATTAN SINGH, J. (Oral)

In response to notice issued, learned counsel appears for respondent no.1 and has filed his power of attorney, which is taken on record.

Mr.Badhran, learned counsel for the petitioner, submits that as a matter of fact all the other respondents are proforma respondents.

That statement having been made, service upon the remaining respondents is dispensed with, with the risk thereof to be borne by the petitioner.

It is also to be noticed that pursuant to an order of this Court dated 24.4.2018, a report has been received from the learned execution Court (Additional Civil Judge, Senior Division, Mohindergarh), to the effect that JD no.2A Ram Kishan (actually the legal representative of Chunni Lal, i.e. the petitioner herein), appeared before the execution Court and suffered a statement that he has no concern with the disputed area and that the said

area had never been inherited by him nor had he made any encroachment on it. However, none of the other parties having appeared before that Court on that date, subsequently Balwant Singh (respondent no.5 herein and shown to be JD no.3 by the execution Court), as also Bhagwan Singh (respondent no.3 herein and shown to be JD no.5 by the execution Court), also got their statements recorded that they have never interfered and would not interfere in the disputed area.

The decree holder, Suraj Bhan, had got recorded his statement to the effect that he was the owner in possession of the disputed area and that when the judgment debtors started interfering in his possession, he instituted civil suit no.189 of 1993 on 15.3.1993 titled as Surajbhan vs. Ganpat etc., which was decreed in his favour on 30.9.2000.

The judgment debtors had preferred an appeal which was dismissed on 5.3.2008, after which an execution petition was filed by the decree holder under Order 21 Rule 32 CPC on 29.4.2004, which was decided on 8.11.2008, but with the judgment debtors failing to comply with the directions of the Court, leading to the filing of a contempt petition by the decree holder.

In the meanwhile, the original JD no.2 (Chunni Lal) died and on 19.11.2015, his legal representatives were brought on record.

The contempt petition was thereafter decided on 10.10.2016, with the 'opposite party' ordered to be sent to civil imprisonment for three months, (the appeal also having been dismissed).

The report goes on to state that as per Suraj Bhan, other than Ganpat, all the judgment debtors/respondents are interfering in his

possession over the disputed property.

Subsequently, on 10.5.2018, JD no.2C, Ratti Ram (respondent no.7 herein), who was in custody, was produced before the execution Court, with his statement also recorded to the effect that he never interfered in the disputed area nor would he interfere in the same and that the attachment of the property ordered may be cancelled, with his name removed from the execution petition.

The statements of the aforesaid persons have been annexed with the report of the learned execution Court.

The statements of JD no.1 Ganpat and JD no.2D Manoj (respondents no.2 and 8 respectively herein) could not be recorded as they are stated to have died (as per the report of the execution Court), with JD no.2B Raju ((respondent no.6 herein) having failed to appear before this Court, with possibly summons issued to him not having been served, he being a truck driver who occasionally visits his village, (as also recorded in the report).

Learned counsel for respondent no.1 submits that as regards the statements of all the judgment debtors who appeared before the execution Court and recorded their statements, they be held bound to their statements, upon which the petition may be allowed qua them and the warrants of arrest, subject to their adhering to the statements made, be discharged.

Ordered accordingly, with Ram Kishan (LR of Chunni Lal, the petitioner herein) and respondents no.1, 3, 5 and 7 herein held bound to their statements recorded before the execution Court, subject to which their warrants of arrest shall stand discharged. However, upon them violating the

undertaking given by them before the execution Court, the decree holder would be at liberty to take all steps against them in accordance with law.

As regards those judgment debtors as had not made any statements before the execution Court despite the order of this Court dated 24.4.2018, proceedings qua them shall continue.

The petition stands disposed of as above.

21.11.2018
pk/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No