

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

C.R. No. 2029 of 2018
Date of decision: 27.03.2018

Surjit Singh

....Petitioner(s)

Versus

Sardul Singh

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ujjal Singh, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The judgment debtor/defendant challenges the order dated 21.02.2018 (Annexure P-2) whereby, in the execution petition, it has been held that the decree holder is entitled to recover Rs.50,000/- alongwith 12% interest from the petitioner-defendant. The plea that he was entitled for *chakota* amount from the decree holder was rejected and his objections were dismissed and accordingly warrant of attachment of property has been issued.

Counsel for the petitioner has vehemently submitted that the respondent was in possession of the land and has referred to the findings of the Revenue Court whereby, application for correction of Khasra Girdawaries has been done in favour of the plaintiff-respondent on 28.02.2008 (Annexure P-4). Similarly, reference is also made to proceedings whereby, the possession was got handed over to the petitioner-defendant on 21.05.2009 by the Assistant Collector with the help of the police.

The Additional Civil Judge, Faridkot, vide judgment dated

16.07.2010, dismissed the suit of the plaintiff-respondent for specific performance of agreement to sell dated 27.05.2002 inter se the parties in which the plaintiff had alleged that possession of the land was to be delivered at the time of the registration of the sale deed. The Civil Court had come to the conclusion that the plaintiff was not ready and willing to execute his part of the agreement and the amount of Rs.50,000/- had been received but there was never any intention to sell the property to the plaintiff which was joint and he was not an exclusive owner nor in exclusive possession. In such circumstances, the decree for recovery of Rs.50,000/- was granted alongwith interest @ 12% per annum from 27.05.2002 till realization of the amount which was the money received by the petitioner.

It is the case of the petitioner himself that the plaintiff had preferred an appeal before the District Judge, Faridkot, which was dismissed on 28.09.2010 and thereafter Regular Second Appeal had also been filed before this Court which was dismissed on 30.03.2011. Resultantly, the findings as such have become final inter se the parties. The petitioner never chose to assail the findings whether the suit was decreed for recovery of Rs.50,000/- alongwith 12% interest. It was neither his case as such in the civil suit also that possession had been taken by the plaintiff as such and that he was cultivating the land and, therefore, the amount of Rs.50,000/- could be adjusted against the *chakota* which the plaintiff was liable to pay.

The reference to the findings before the Assistant Collector, Revenue Court as such that the record has been changed also would be of no help since the same was done during the pendency of the Civil Court proceedings. It is settled principle that the Civil Court findings will always prevail over the Revenue Court findings. The Civil Court has come to a

conclusion that the plaintiff was never in possession as such of the land and, therefore, not much strength can be drawn from the proceedings before the Revenue Authorities.

In such circumstances, the petition is liable to be dismissed in limine and it is accordingly ordered as such.

27.03.2018 shivani	(G.S. SANDHAWALIA) JUDGE
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Whether reasoned/speaking	Yes/No
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Whether reportable	Yes/No
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