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

**CR No.2124 of 2017 (O&M)
Date of Decision: 08.10.2018**

GURWANT SINGH AND ANR.

.....Petitioners

Vs

SUKHVINDER SINGH AND ANR.

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Amandeep Singh, Advocate for
Mr. S.K. Aggarwal, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioners have assailed the order dated 29.11.2016 passed by the Civil Judge (Jr. Divn.) Kaithal vide which execution in terms of Order 21 Rule 32 CPC filed by the petitioners/decreed holders was dismissed.

[2]. In the execution filed by the counter-claimants/petitioners the executing Court has dismissed the execution on the premise that conflicting facts have come on record. The Court referred to the statements of the petitioners as well as Mangal Singh. As per statement of DHW-1, the construction was raised after passing of decree dated 20.12.2011, whereas

statement of DHW-3 has pointed that after passing of the decree construction has not been demolished. Even as per statement of the decree-holders, they have not pleaded any knowledge as to when the alleged construction was raised by the judgment-debtors.

[3]. The executing Court further held that in the absence of proving date, time and manner of alleged construction, indulgence in terms of Order 21 Rule 32 CPC cannot be granted. Bare statements of the decree-holders coupled with site plan produced by them, could not prove the factum of construction being raised by the judgment-debtors on some specific date by way of disobeying the order dated 20.12.2011.

[4]. I have considered the arguments made by learned counsel for the petitioners.

[5]. On the basis of material on record, the decree-holders could not prove the disobedience as per the requirement of Order 21 Rule 32 CPC, wherein the requirement is that where the party against whom an order for injunction has been passed, had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced by his detention in the civil prison, or by the attachment of his property, or by both. The material on record would not show such fact which may attract culpability of the judgment-debtors in terms of the aforesaid

provision.

[6]. In view of above, no indulgence can be granted in this revision petition. The same is accordingly dismissed.

[7]. Since the revision petition has been dismissed on merit, therefore, there is no need to adjudicate upon the application for condonation of delay.

October 08, 2018

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No