

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 216 of 2018 (O/M)

Date of decision : 16.1.2018

Jagjit Singh

..... Petitioner

Versus

Gurdev Kaur and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. V.K. Kataria, Advocate, for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner has impugned the order dated 28.11.2017, passed by the learned Additional Civil Judge (Senior Division), Moga, vide which third party objections, filed by present petitioner Jagjit Singh, were dismissed.

Heard.

It comes out that an ejectment order was passed by the Rent Controller, Moga, in favour of Gurdev Kaur and against Ram Parkash (JD). Ram Parkash (JD) is now succeeded by his LR Pawan Kumar. The JD was directed to hand over the possession of vacant shop to the decree holder Gurdev Kaur. The said order is now being executed. It comes out that later on i.e. 27.2.2015, petitioner Jagjit Singh filed a suit for declaration that he is owner in possession to the extent of 1/3rd share in land bearing khasra No. 3101 (0-15), 3102 (0-13), situated in the estate of Moga Mehla, Tehsil and District Moga and in the alternate sought declaration for possession/joint possession as owner/co-owner. With the said suit, an application under Order 39 Rules 1 and 2 Civil Procedure Code, 1908, was

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filed, wherein the learned Additional Civil Judge (Senior Division), Moga, vide order dated 26.7.2016, directed the parties to maintain status quo regarding the nature and possession of suit property. It is on the basis of this order that present objections were filed by present petitioner for not executing the ejectment order on the basis of said status quo order. The said prayer was declined vide the impugned order, passed by the learned Additional Civil Judge (Senior Division), Moga, inter alia, on the ground that in the ejectment order, property is to be shown in Municipal No. 471, situated at Kotkapura Road, Moga. However, in the suit filed by objector, it is given khasra number.

I have heard the learned counsel for petitioner and have also carefully gone through the file.

It comes out that on the basis of status quo granted by the civil court, present petitioner wants to frustrate the execution of decree. The ejectment order was passed in favour of respondent No. 1 Gurdev Kaur being the landlady. If petitioner has any claim regarding possession of vacant shop against Gurdev Kaur, that does not mean that ejectment order should not be executed. The learned Additional Civil Judge (Senior Division), Moga, vide order dated 26.7.2016, has nowhere observed that execution is pending and that possession should not be delivered to Gurdev Kaur. It is a general order regarding nature, possession and status quo. However, due process of law is always protected. Since Gurdev Kaur is adopting due process of law, therefore, notwithstanding the status quo order passed by the learned Additional Civil Judge (Senior Division), Moga, the ejectment order passed in favour of Gurdev Kaur can be executed. There are no merits in present revision. Therefore,

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instant revision is dismissed.

(KULDIP SINGH)
JUDGE

16.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No