

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.2653 of 2018(O&M)
Date of Decision: 26.04.2018

Bhoop Singh & ors.

.... Petitioners

Versus

Ram Singh since deceased through his LRs & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. P.C. Yadav, Advocate,
for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Article 227 of the Constitution of India, challenge has been laid to order dated 01.02.2018(Annexure P-5) passed by learned Civil Judge (Senior Division), Rewari, whereby warrants of possession have been issued and order dated 05.04.2018 (Annexure P-6), whereby Misc. Civil Appeal challenging order dated 01.02.2018 on application of the decree-holder dated 26.09.2011 for delivery of physical possession of the suit property measuring 10 kanals 3 marlas, was dismissed.

Briefly stated, in the year 1979 deceased Ram Singh-respondent No.1 filed a suit for possession by way of pre-emption being a co-sharer against the petitioners, which, after contested by the petitioners, was decreed vide judgment and decree dated 07.08.1993. The petitioners assailed the judgment aforesaid before the First Appellate Court, but remained unsuccessful and approached this Court by way of RSA No.2703 of 1995, which too was dismissed. Thereafter, decree-holders filed execution petition, which is still pending.

During the pendency of the execution petition for satisfaction of the

petitioners, various reports have been called from the concerned revenue officials suggesting mode to execute the decree in favour of the respondents and vide impugned order dated 01.02.2018, Naib Tehsildar, Rewari was appointed to hand over the actual and physical possession at the spot strictly in compliance of the judgment and decree dated 07.08.1993. The appeal against the same has already been dismissed.

Learned counsel for the petitioner *inter alia* contends that without partition of the suit land, judgment and decree in favour of the respondents, cannot be executed, inasmuch as it would effect the rights of other co-sharers, who were not impleaded as a party. The Executing Court, before issuing warrants of possession, ought to have partitioned the suit land for its delivery to the respondents-decree-holder.

Having given considerable thoughts to the submission made by learned counsel for the petitioner, I find that the instant revision being completely devoid of any merit, fails and deserves to be dismissed for the reasons to follow:-

Earlier also, similar objections raised by the petitioners-judgment debtors were dismissed by the Executing Court vide order dated 12.05.2017 and warrants of possession were issued. Misc. Civil Appeal of the petitioner against the order of the Executing Court for issuance of warrants of possession has also been dismissed. Therefore, similar objections for the second time were not maintainable.

It is an exemplary case where the petitioners either on one false plea

or the other is delaying the execution of the decree, which was passed way back in the year 1993 i.e. around 39 years back. The petitioners are illegally and unauthorizedly enjoying the possession of the suit property, which clearly shows their high handedness and dishonest intention.

In such circumstances, it can easily be inferred that the judgment debtor with a mala fide intention has abused the process of law. The executing Court after satisfying itself has executed the warrants of possession. The impugned order is perfectly legal. The same does not warrant any interference.

Dismissed.

It would not be out of place to mention here that such type of frivolous petitions are liable to be dismissed with exemplary costs, but in view of the persistence request of learned counsel for the petitioner, the same is not imposed.

26.04.2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No