

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 3239-2018 (O&M)

Date of decision: 16.05.2018

Manjit Kaur

.....Petitioner

versus

Sham Sunder and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. N.P.S. Mann, Advocate for the petitioner

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldeep Singh, J. (Oral)

Petitioner has impugned the order dated 9.10.2017 (Annexure P9) passed by learned Civil Judge (Senior Division), Hoshiarpur, vide which, objections filed by the Judgment debtor in the execution proceedings were dismissed.

Heard.

Copy of the judgment and decree of the trial Court dated 8.3.2006 (Annexure P3) shows that following relief was granted:-

16. In view of the above discussion issues, suit of the plaintiff for possession of land shown in red colour in the site plan and marked as ABCD and for mandatory injunction directing the defendants to restore the suit land to its original condition is decreed. However, the suit of the plaintiff for recovery of Rs.10000/- as damages and value of trees cut from the land out of the land bearing Khasra No.717 and 718 and

also an area measuring 3 Marlas 6 Sarsahi out of Khasra No.715 as reported by the Local Commissioner situated in village Koi is dismissed. The defendants are directed to remove the encroachment from the suit property within three months from the date of order failing which the plaintiff is entitled to remove the same through court.

The present petitioner was party to the said civil suit. It is not denied that first appeal as well as Regular Second Appeal were dismissed and now said decree has become final. The decree holders filed an application for execution of the same.

The plea of the learned counsel for the petitioner is that it is a passage belonging to Gram Panchayat and they have nothing to do with it.

I am of the view that all the pleas raised by the defendants in the said case were considered by the Civil Court and were decided. Now, the Executing Court, while executing the order, cannot re-open the findings to take another view. The defendants JDs were to restore the passage in terms of the decree and if they failed to do it, the Court has a right to get the same done at the expenses of JDs. Objections were rightly found to be frivolous. There is no ground to interfere in the same.

Resultantly, the present revision petition stands dismissed.

16.05.2018

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No