

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

**CR No.3611 of 2018 (O&M)
Date of decision : May 28, 2018**

Sham Lal (now deceased) through his LR Petitioner

Versus

Daulat Ram (now deceased) through his LR Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sudhir Paruthi, Advocate for the 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 ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 04.05.2018 passed by learned Civil Judge (Jr. Divn.)-8, Jalandhar, whereby the objection petition filed by the present petitioner was dismissed.

Heard.

A civil suit was filed against the present petitioner-J.D. for specific performance of the agreement of sale dated 22.05.1979, which was decreed by the learned Sub Judge, 1st Class, Jalandhar, on 03.12.1980. The said judgment was upheld in appeal and in the regular second appeal also.

Now, in the execution, the petitioner-J.D. has filed the objections under Section 47 CPC, 1908 that decree for possession could not be granted by the trial Court or the appellate Court as relief for possession was never prayed for by the decree holder.

I am of the view that the said plea is deemed to have been considered and decided by the civil Court when it passes the decree. It cannot be agitated by the present petitioner-J.D. in execution. Therefore, there is no illegality or infirmity in the impugned order.

Learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble the Supreme Court, delivered in case of ***“Adcon Electronics Pvt. Ltd. vs Daulat”, 2002 (1) R.C.R. (Civil) 806.***

The aforesaid judgment is regarding a case in which the matter was examined by Hon'ble the Supreme Court in a Special Leave to Appeal and not in execution proceedings.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

May 28, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No