

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4313 of 2017 (O&M)

Date of Order:21.02.2018

Paramjit Singh and others

..Petitioners

Versus

Kanwaljeet Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.R.Vohra, Advocate,
for the petitioners.

Mr. Jagdish Manchanda, Advocate,
for the respondents.

ANIL KSHETARPAL, J (Oral)

Judgment Debtors are in revision petition against the order passed by the learned executing court dated 03.05.2017.

Decree holder had filed an application under Section 144 CPC for restitution of possession on the basis of the judgment passed by this Court, which was affirmed by the Hon'ble Supreme Court. Operative part of the judgment reads as under:-

“Mr. Neeraj Jain, Senior Advocate has brought to the notice of this Court that during the pendency of the appeal, an application viz. CM-7571-C-2004 was filed seeking restraint order against the respondents that they should not take possession except in accordance with law. However, in the reply filed to the said application, it has been stated that the respondents/plaintiffs are already in possession. Whereas Mr. Jain has stated that his clients are in possession. Be that as it may, in case the respondents/plaintiffs have been found to have taken the possession of the property, the appellant/defendants shall be entitled to seek restitution of the property by

invoking the provisions of Section 144 CPC.”

In view of the aforesaid decree passed, the Decree holder filed an application under Section 144 of the Code of Civil Procedure, in which objections were filed and the Judgment Debtors prayed that the court must frame issues and allow the parties to lead evidence.

The prayer for framing issues was dismissed by the Executing Court on 03.05.2017. The aforesaid order is under challenge before this Court.

Learned counsel for the petitioner-JD has vehemently argued that the Executing Court was required to examine when and how the JD-plaintiff had taken over the possession of the land in dispute. Hence, this issue has to be framed and adjudicated upon after granting opportunities to the parties to lead evidence.

In the considered opinion of this Court, the order passed by the learned Executing Court does not need any interference because the directions issued by this Court while deciding Regular Second Appeals are specific. This court has found that the defendants are entitled to possession of the property.

This being the situation, there is no good ground to interfere with the impugned order passed, the revision petition is dismissed.

The Executing Court is requested to finally decide the application within three months from the date of receipt of the certified copy of this order.

February 21, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No