

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

CR No.4906 of 2016 (O&M)
Date of decision : 21.08.2018

Bijender Jain and another

...Petitioners

Versus

Dera Sidh Ganeri Sudhar Sabha Regd. and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Adarsh Jain, Advocate for the petitioners.

Mr. G.S. Punia, Sr. Advocate with
Ms. Jagriti Kalia, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

This revision petition has been filed against the order passed by the Executing Court dismissing the objections filed by the petitioners.

The petitioners are husband and wife. A decree for eviction has been passed against Om Parkash, brother of petitioner No.1, brother-in-law of petitioner No.2. The religious institution had filed the proceedings under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the tenant namely Om Parkash from the tenanted portion measuring 10 marlas comprised in Bara No.438.

The aforesaid petition was allowed vide judgment dated 01.10.2008 passed by the Rent Controller. Appeal filed by Om Parkash was dismissed vide judgment dated 07.12.2012 by the Appellate Authority.

When the execution of the eviction decree was sought, the petitioners filed the objections. It was pleaded in the objections that the property, possession whereof is sought, is premises No.137 and such a decree is result of collusive litigation between the Decree Holder and the Judgment Debtor. The objectors also claimed that they are in possession of the property for 20 years.

During the pendency of the objection petition, some additional facts/objections were filed by the petitioners for the first time pleading that the objectors are tenants of Ranjit Singh Chela of Mahant Prem Nath at the rate of ₹200/- per month.

Learned Executing Court after examining the record, dismissed the objection petition.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the record.

Learned counsel for the petitioners submitted that since the petitioners had filed third party objections, it ought to have been decided as a Civil Suit and, therefore, the order passed by the Executing Court is erroneous.

On the other hand, learned Senior Counsel appearing for the respondent-Decree Holder has pointed out that the objection petition and the revision is abuse of the process of law. He submitted that 10 marlas vacant land was let out for commercial purpose to Om Parkash on 01.04.1987. Subsequently, another rent note was executed on 01.04.1991 and the last rent note was executed on 02.03.1998. He further pointed out that Om Parkash raised construction and the religious institution i.e. Decree Holder

had to file a suit for permanent injunction. He pointed out that vide order dated 29.09.2005, the parties were directed to maintain status quo. He further pointed out that the Executing Court has found that the Judgment Debtor is also in possession of some part of the property.

This Court has considered the submissions and with able assistance of the learned counsel for the parties, gone through the documents filed in the paper book.

In the considered opinion of this Court, the objection petition filed by the petitioners is wholly abuse of the process of law. First of all, the relationship between the parties is not disputed. The Judgment Debtor is brother of petitioner No.1. Still further, when original objections were filed, the petitioners did not plead that they are tenants of Ranjit Singh Chela of Mahant Prem Nath. Only plea taken was that the petitioners are in possession for the last 20 years. No doubt, the petitioners has drawn attention of the Court to Annexure P-1, a communication sent by the Life Insurance Corporation of India, addressed to petitioner No.1 wherein he has been shown as resident of House No.137. He has also referred to various other documents which prove that the plaintiffs are in possession of some part of the premises in question.

However, keeping in view the fact that in the objection petition, the petitioners did not plead that they are tenants under Ranjit Singh Chela of Mahant Prem Nath and the property in dispute is in total 10 marlas, which was the property leased out wayback on 01.04.1987. This Court does not find substance in the arguments of learned counsel for the petitioners.

It is not mandatory that whenever third party objections are

filed, the Court must necessarily cull out the issues and allow the parties to lead the evidence. Once the Court finds that the objections filed have no substance and abuse of the process of law and these have been filed at the behest of the Judgment Debtor, the Courts are justified in dismissing the objection petition of the third party. The facts as noticed above, are clearly proving that two brothers have now colluded and the Judgment Debtor has got filed these objections to frustrate the execution of the decree.

In view thereof, there is no ground to interfere.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

21.08.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No