

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

CR No. 5192 of 2016
Date of Decision: 28.08.2018

Tara Devi and others

.....Petitioners

Versus

Jainendra Gurukul, Panchkula and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. C.S. Bagri, Advocate for the petitioners.

Mr. Adarsh Jain, Advocate for respondent No.1.

Ms. Vrinda Gupta, Advocate for
Mr. Prateek Mahajan, Advocate for respondent No.2.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 22.07.2016 passed by the Additional Civil Judge (Senior Division), Panchkula (for short, the Executing Court) through which third party objections filed by the petitioners were dismissed in default. Also under challenge is order dated 04.08.2016 passed by the Executing Court through which an application filed by the petitioners seeking restoration of their objections after recalling of the aforesaid order dated 22.07.2016 was dismissed.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit against respondent No.2 seeking therein issuance of a direction to respondent No.2 to remove the entire structure/cemented road on the land of respondent No.1 as detailed and described in the head note of the plaint.

The Trial Court decreed the suit of respondent No.1. In the execution

proceedings initiated by respondent No.1, the petitioners filed third party objections which through the impugned order dated 22.07.2016 were dismissed in default by the Executing Court. Thereafter, the application filed by the petitioners for restoration of their objections was also dismissed by the Executing Court through the second order dated 04.08.2016 which is also assailed in the present proceedings.

At the outset, to prevent further delay in the matter, learned counsel for respondent No.1, who is the contesting respondent, submits that he has express instructions from his client that the impugned orders may be set aside and the petitioner's objections be considered and decided on merits. He further submits that since the decree of which respondent No.1 seeks execution was passed on 10.10.2011, the Executing Court be directed to dispose of the petitioner's objections in a time bound manner.

Learned counsel for respondent No.2 also has no objection if the present petition is allowed.

In view of the above statements as also for the reason that through the present petition all that the petitioner is seeking is a decision on merits on his objections, after setting aside the impugned orders, the Executing Court is directed to consider and decide the objections filed by the petitioners on merits, in accordance with law, within four months from the date of receipt of a certified copy of this order.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

28.08.2018
sandeep

Whether Speaking/Reportable : Yes/No
Whether Reportable : Yes/No