

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

CR No.5873 of 2015

Date of Decision: 09.03.2018.

BHOLA SINGH & ORS

...Petitioners

Versus

GURMIT SINGH & ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.C. Arora, Advocate
for the petitioner(s).

Mr. Vishal Mittal, Advocate
for the respondents.

AMIT RAWAL, J. (ORAL)

The petitioners/defendants aggrieved of the dismissal of the objection petition filed against execution/application bearing No. 178 of 2014 seeking the implementation of order dated 12.04.2014 passed by the Lok Adalat Sri Muktsar Sahib, in view of the compromise arrived at between the parties.

Learned counsel appearing on behalf of the petitioner submitted that respondents/plaintiffs/decreed-holders filed the suit for permanent injunction restraining the petitioner/defendants from changing the nature of the land and also to close the passage and water channel shown in the Aksamshajra measuring 51 kanal 11 marla as described in the plaint at village Sotha, Tehsil & District Muktsar on the premises that parties are joint owner and same had not been partitioned, for, the whole landed property was irrigated by canal water. The application for partition was pending. During the pendency of the same the respondents/plaintiffs, out of the coercion

wanted to cause obstruction in the water channel.

The aforementioned suit was contested by the petitioner/defendants, while admitting the factum of the joint ownership. On merits it was contended that defendant had taken possession of the land from the purchasers and was in possession of the same and the most of the possession of the land comprised in Rectangle No. 60 and they have got installed one electric motor in this rectangle. The Khal which has been alleged by the plaintiff in rough site plan in Rectangle No. 75 killa No. 2 was closed and one water seepage was dug out on the side of the Rectangle 75 killa No 2 and 9. On the basis of aforementioned pleadings, the trial Court therefore, dismissed the suit vide judgment and decree dated 16.08.2013 and in the appeal laid before the lower appellate Court, the parties arrived at a compromise and Lok Adalat passed the orders.

The aforementioned application was filed in the executing Court which has erroneously dismissed the same as it had erroneously recorded in the order of the Lok Adalat by the Presiding Officer that the obstruction was to be removed by the JDs and the entire order has not been corrected but the operative part has been corrected. The trial Court was required to read the statement of the parties in the pith and substance.

On the other hand, learned counsel for the respondents/decreed-holders had submitted that if at all there was a threat to the JDs, nothing prevented them to move an application for correction of the order but since the order was invogue rightly, so in view of the fact that the officials had not adhered to the compromise and thus urges this Court for dismissal of the revision petition.

I have heard the Ld. Counsel for the parties and appraised the paperbook.

It would be apt to reproduce the order dated 12.04.2014 of the Presiding Officer, Lok Adalat recording the joint statement which reads thus:-

“This appeal is taken up today in the Lok Adalat. Plaintiff/appellants filed the suit for permanent injunction in the Court below, which was dismissed vide-judgment and decree dated 16.08.2013 and then, appellants preferred this appeal against the same. During the course of the arguments in this appeal, the matter has been amicably settled between the parties with the intervention of the Court. Statements of both the parties have also already been recorded on 15.03.2014. The joint statement of respondents Bhola Singh, Rashpal Singh and Harbhagwan Singh are reproduced as under:-

“ Stated that the suit was filed by Gurmeet Singh appellant, which was dismissed, and hence this appeal. Before learned lower Court, our counsel Sh. Bakhshish Singh Sidhu Advocate suffered his statement to the effect that we will not raise any construction on the passage or Khal and we are stick to the above said statement. Nehri Khal in front of our land is in existence as per revenue record, but the same is filled with earth. If the plaintiff erected the Khal and Pahi from the outlet (Mogha), then the water comes near to our land and we will not raise any objection to pass through the water in the Khal

situated adjoining to our land. According to our statement, this appeal be disposed of we will remain bound by our statement.”

The appellants Gurmeet Singh and Sukhwinder Singh also suffered their statement with counsel on 15.03.2014, which is also reproduced as under:-

“ Stated that we have heard the statement of respondents, which is correct and if the Khal which exists near/adjoining the land of respondents is allowed to use for irrigation purpose and to go through the outlet (Mogha), then our appeal be disposed of through Lok Adalat.”

In view of statements of both the parties, as recorded above, countersigned by their respective counsels, present appeal stands disposed of in the Lok Adalat with the observations that if the appellants want to continue the Nehri Khal for passing the water through the outlet (Mogha) for the purpose of irrigation, then the respondents will not interfere. The Nehri Khal in which the earth is filled, which is adjoining to the land of respondents, that will be removed by the respondents in terms of compromise. The parties shall remain bound by their statements. Lower Court record along with copy of this order be remitted forthwith and appeal file be consigned to the Record Room.”

On perusal of the aforementioned order, it is the order, which

has to be decreed, and not the statement. If there was a defect to the order, nothing prevented the petitioners/ JDs to file the application for its correction or modification. The order was passed on 12.04.2014, whereas the application was filed in August, 2014 after 4 months of the same. Since the irrigation of the land is of emergent in nature, the party cannot be prevented to seek the execution of the compromise or if one of the parties has not respected and honoured the agreement/compromise. Petitioners/defendants could have sought to the correction/modification of the order. It is clear that the petitioners/JDs were directed to remove the earth filled in the Nehri Khal which had not been done, compelling for filing of the execution application. As an upshot of my observations, I do not find any illegality or perversity in the impugned order, dismissing the objections, much less, it cannot be said to be without jurisdiction, accordingly, Civil Revision petition is dismissed.

[AMIT RAWAL]
JUDGE

March 09, 2018

Jyoti-IV

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No