

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

C.R. No.7792 of 2015  
Date of Decision.19.01.2018

Rama

.....Petitioner

Vs

Shambu

.....Respondent

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Gunjan Mehta, Advocate  
for the petitioner.

Mr. Ashwani Bakshi, Advocate  
for the respondent.

-.-

**AMIT RAWAL J.(ORAL)**

The present revision petition is directed against the order dated 30.10.2015 (Annexure P-5) whereby the objection filed by the judgment debtor against the execution of the judgment and decree dated 23.07.2009 passed by the Civil Court and upheld by the lower Appellate Court has been dismissed.

Mr. Gunjan Mehta, learned counsel appearing on behalf of the petitioner submitted that the trial Court decreed the suit in the following manner:-

*“It is ordered that the suit of the plaintiff is decreed with costs. A decree for permanent injunction and for restoration of the possession be passed in favour of the plaintiff and against the defendant. A decree for restoration of the possession of the plaintiff over the area upon which the defendant has constructed two rooms be passed in favour of the plaintiff and against the defendant. The counter claim of the defendant is dismissed with costs. The defendant is restrained from interfering into the possession of the plaintiff and further directed to hand over vacant possession of the area so encroached upon by the defendant*

*within three months, failing which the plaintiff shall be at liberty to recover the same with the help of this Court.”*

The appeal preferred against the aforementioned judgment and decree also met with the same fate and a regular second appeal bearing No.5827 of 2015 has been preferred assailing the judgments and decrees passed by the Courts below which is pending adjudication before this Court. The objection petition was filed on the premise that it came to the knowledge of the petitioner-defendant that Naider was the original owner of the property and after his death the property had devolved upon his son Mai Dayal, who had three sons namely Bhopal, Sambhu and Rama and three daughters namely Sarti, Bharpai and Bhaliya and a suit for injunction was filed against Rama by other co-sharer.

I am of the view that once the suit for injunction had been filed, the aforementioned plea can always be taken by placing on record additional evidence for seeking stay of the judgments and decrees in pending regular second appeal but not in the manner and mode by filing the objection petition.

I do not find any reason to interfere with the order under challenge. No ground for interference is made out. While upholding the order under challenge, the revision petition is disposed of with the aforementioned observations.

(AMIT RAWAL)  
JUDGE

January 19, 2018  
Pankaj\*

|                           |     |
|---------------------------|-----|
| Whether reasoned/speaking | Yes |
| Whether reportable        | No  |