

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

105

CR No.8470 of 2016 (O & M)
Date of Decision:02.02.2018

Shamsher Singh (now deceased) through his LR ...Petitioner

Versus

Mohan Lal and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner.

Mr. Suresh Kumar Kaushik, Advocate
for respondents No.1 and 2.

ANIL KSHETARPAL, J.(Oral)

Judgment-debtors are in the revision petition against the order passed by the learned Executing Court dated 14.10.2016 dismissing their objections.

It is not in dispute that in a suit filed by the decree-holders/plaintiffs, decree was passed against the judgment-debtors on 08.10.1988 and the aforesaid decree has become final between the parties. Plaintiff/decreed-holder had claimed to be in cultivating absolute possession of the agricultural land measuring 13 karam X 198 karmas mark by letters 'A', 'B', 'C', 'D' shown in red colour in the site plan attached. The property was identified by giving details of the property located in all the four directions. The relevant pleadings are extracted as under:-

“ That the plaintiff is in cultivating absolute possession of the agricultural land measuring 13 karam X 198 karam marked with letters A B C D shown in red colour in the site plan attached field Nos.16, 14 and 13/2

out of the above mentioned agricultural land mentioned in para No.2 of the plaint towards the Northern side and is bounded as under :-

North :- Fields of Ganpat and Pehlad Defendants etc.

South :- Fields of Narinder and Smt. Shakuntla Proforma defendants.

East :- Shri Balbir Singh's etc. fields

West :- Rasta and then Maxi Factory.

This portion of the land was fallen to the share of the plaintiff after mutual partition between the plaintiff defendants No.4 and 5 about 2/3 years back and since then the plaintiff is coming in absolute cultivating possession of the red portion of the land.”

Decree-holder filed an application for execution of the decree and thus claimed that after passing of the decree, judgment-debtors have encroached upon the property.

Learned Executing Court appointed a Local Commissioner, who visited the site and gave a report on 25.10.1999 to the Court that judgment-debtors have encroached upon 3 kanals and 2 marlas of land belonging to the decree-holder. Objections to the report of Local Commissioner were filed which were dismissed on 27.05.2000. Thereafter, the petitioner/objectors filed objection petition which had been dismissed by the Court vide order dated 14.10.2016 by a detailed order.

Learned counsel for the petitioner has vehemently argued that since the property has not been identified properly and there is no evidence

available on the file as to when the decree-holders were dispossessed, therefore, the learned Executing Court has committed an error in dismissing the objections.

This Court has considered the argument. It is not in dispute that on the day the decree was passed, which has become final between the parties i.e. on 08.10.1988, plaintiffs/decrees-holders were found in possession and judgment-debtors were restrained from interfering in the possession of the plaintiff. This being the decree, which has become final between the parties, the judgment-debtor cannot be now permitted to allege that they were in possession of the property before the date of decree.

With regard to second argument of learned counsel for the petitioner that the property has not been properly identified, suffice to say that the learned Executing Court appointed a Local Commissioner, a Revenue Official who demarcated the area and submitted a report to the Court that judgment-debtors have encroached upon 3 kanals and 2 marlas of land. Objections against the aforesaid report filed by the judgment-debtor have already been dismissed by the Court on 27.05.2000.

In view thereof, there is no scope for interference.

The present civil revision is dismissed.

02.02.2018
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(ANIL KSHETARPAL)
JUDGE

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