

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

CR No.8487 of 2016 (O&M)
Date of decision : 08.05.2018

M/s Suncity Buildcon Pvt. Ltd. and another

...Petitioners

Versus

Narender Singh (deceased) through his LRs and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aashish Chopra, Advocate with
Ms. Niharika Sharma, Advocate for the petitioners.

Mr. Deepak Girotra, Advocate for respondent Nos.1(i to iii).

ANIL KSHETARPAL, J. (ORAL)

Although order dated 20.10.2016 passed by the trial Court has been challenged before this Court, whereby the trial Court refused to frame the issues so as to decide the objections filed by the petitioners, however, during the course of arguments, it came to the notice of this Court that there is no decree for possession. The claim made in the suit is extracted as under:-

“Claim for: A decree for declaration to the effect that the plaintiff is owner in possession of suit land as mentioned in para No.2 & 3 of the plaint on the basis of Will dt. 2.8.1991 executed by Smt. Panmeshwari @ Parmeshwari, further the decision/order dated 28.12.2005 passed by Sh. Vatsal Vashisth, A.C. Ist Grade, Rohtak sanctioning the mutation regarding suit land in favour of defendants be declared null and void and as a consequential relief the defendants be restrained from dispossess the plaintiff from the suit property

and from alienate the suit property in any manner by passing a decree for permanent injunction in favour of plaintiff and against the defendants. It is further prayed that if during the pendency of the suit the defendants succeed in their illegal designs, a decree for mandatory injunction to restore the present status of suit land may kindly be passed with restrospective effect.”

and the order passed by the Court which is part of the decree is extracted as under:-

“It is ordered that the suit of the plaintiff succeed and decreed to the extent that the plaintiff is owner in possession of the land detailed in para No.2 and 3 of the plaint on the basis of Will dated 2.8.1991 executed by Smt. Panmeshwari @ Parmeshwari with all consequential benefits emerging thereafter.”

While passing the impugned order, learned Court appears to have overlooked the aforesaid fact.

The Executing Court is directed to re-examine the entire matter in the context that in the absence of any decree for possession, what relief can be granted to the Decree Holder in the execution petition.

In view thereof, the present revision petition is disposed of in the aforesaid terms.

All the pending miscellaneous applications, if any, are disposed of, in view of the aforesaid order.

08.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No