

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.8366 of 2017(O&M)

Date of Decision: 17.01.2018

Bakshish Singh(deceased) through LRs

... Petitioner

Versus

Joginder Singh & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vikram Anand, Advocate,
for the petitioner.

RAMENDRA JAIN, J.(Oral)

Through the instant revision petition, the petitioner has laid challenge to the order dated 23.08.2017 passed by the trial Court dismissing his application under Order 21 Rule 32 CPC for attachment and sale of property of the respondents.

In nutshell, the petitioner in a suit for permanent injunction against the contesting respondents won upto this Court inasmuch as the judgment and decree dated 15.10.1998 in his favour was affirmed by the First Appellate Court as well as by this Court in RSA No.4640 of 2002. In his suit, the respondents were restrained from evicting the petitioner from the plot in question.

Through his application under Order 21 Rule 32 CPC, the petitioner claimed that on 7.12.2014, when he along with his wife was cleaning the property in dispute in order to raise construction, the respondents armed with batons and cudgels came on the spot and forcibly ejected them

and occupied the same illegally and forcibly.

After issuing notice to the contesting respondents, taking into consideration their written statement on the record and framing issues, the learned Additional Civil Judge (Senior Division) Kapurthala, dismissed the aforesaid application of the petitioner vide impugned order dated 23.08.2017 while returning the findings of issue No.1 against the petitioner and that of issues No.2 and 3 in favour of the respondents and of issues No.4 and 5 against the respondents.

Learned counsel for the petitioner while drawing the attention of this Court towards the statement of respondent No.1 (DW-1) before the trial Court contends that as soon as he testified that the petitioner never continuously remained in possession of the suit property, the learned trial Court ought to have accepted the application under Order 21 Rule 32 CPC in view of aforesaid categorical admission of DW-1.

After giving thoughtful consideration to the submissions made by learned counsel for the petitioner, I find that the instant appeal is completely devoid of any merit for the simple reason that the petitioner as PW-1 specifically admitted in his cross-examination in unequivocal terms that he was in settled possession of the plot in question since 2014 till date. Therefore, it is clearly evident that none of the respondents had ever interfered into the possession of the plaintiff over the suit property. Since the petitioner himself demolished his case by admitting his continuous possession over the suit property till date, this Court is not inclined to interfere with the well reasoned findings of the trial Court, more particularly, when the question of illegal dispossession of the petitioner does not arise at all as alleged by him in view of the fact that the respondents have already

filed a suit for possession qua the suit property against the petitioner.

Dismissed.

17.01.2018
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(RAMENDRA JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>