

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

114

CR No.9134 of 2017
Date of Decision:17.01.2018

Sardara Ram

...Petitioner

Versus

Sarban Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunil Garg, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Decree-holder is in the revision petition against order dated 09.01.2015 dismissing the execution petition under Order 21 Rule 32 of the Code of Civil Procedure.

Petitioner/decreed-holder had filed an application for punishing the respondents for violating a decree of injunction passed by the Court on 11.02.2009.

Learned Executing Court after considering all aspects of the matter had dismissed the application by giving broadly two reasons; (i) respondent No.2 to 6 were not party to the decree (ii) decreed-holder has failed to prove that the boundary wall was demolished by the judgment-debtor, after the date of the decree i.e. 11.02.2009.

Learned counsel for the petitioner has argued that although it is true that respondent Nos.2 to 6 were not party to the decree dated 11.02.2009, however, they are agent of respondent No.1. He has submitted that thus the agents are also bound by the decree. He has further submitted that the learned Executing Court did not appreciate the evidence in the

correct perspective.

I have considered the submission of learned counsel and with his able assistance gone through the order impugned and other documents filed.

In the present case, learned Executing Court framed issues and permitted the parties to lead evidence. After recording evidence, the Court returned a finding that there is no conclusive evidence available on the file to prove that the boundary wall was demolished by judgment-debtor after 11.02.2009.

In the considered opinion of this Court, no one can be punished without their being any conclusive evidence available on the file to prove violation of the decree passed by the Court.

Although, learned counsel for the petitioner has submitted that respondent Nos.2 to 6 are agents of the judgment-debtor, however, there is no conclusive evidence to prove such fact.

In these circumstances, this Court does not find any good ground to interfere with the impugned order passed by the learned Executing Court. Needless to say that the finding arrived at by the learned Executing Court while passing the impugned order would not come in the way of the petitioner in a separate suit, which he would be at liberty to file.

Revision petition is dismissed.

17.01.2018
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(ANIL KSHETARPAL)
JUDGE

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