

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

234

**CR No.2006 of 2017(O&M)
Date of Decision: 02.04.2019**

SATISH CHANDER

.....Petitioner

Versus

MURARI LAL AND ANR

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Satbir Rathore, Advocate
for the petitioner.

Mr.Sanjiv Pandit, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

This revision petition has been filed by the petitioner challenging orders dated 30.4.2015 and 17.1.2017 passed by the Executing Court and first Appellate Court.

The Courts below have held that the execution be treated as fully satisfied. The decree was passed in respect of the land measuring 14 marlas 7 sarsahi, which was subject matter of khasra No.1006 (1-7) owned and possessed by the plaintiffs. The controversy is with regard to delivery of possession, whether possession of aforesaid khasra number was delivered to the decree holder after demolishing the existing construction on the site in question. Petitioner has

already shown his grievance on 30.4.2015 when the executing court held the decree to be fully satisfied on the basis of report of Tehsildar, Dasuya, which was duly endorsed by SHO, Police Station, Dasuya. In order to ascertain the factual position in respect of existing structure in khasra No.1006 or adjoining khasra No.1005, this Court passed the following order on 21.9.2018:-

“Petitioner is aggrieved of orders dated 30.4.2015 and 17.01.2017 passed by the Executing Court and first Appellate Court holding the execution to be fully satisfied. Perusal of the decree under execution would show that the suit land measuring 14 Marla 07 Sarsahis was the subject matter of Khasra Nos.1004 (0-11) and 1006 (1-7) owned and possessed by the plaintiff. The possession was delivered to the decree holder after demolishing the structure existing on the site. The petitioner also showed his grievance on 30.04.2015 itself when the Executing Court held the decree to be fully satisfied on the basis of report of Tehsildar Dasua, duly endorsed by SHO, Police Station Dasua. It appears from the record that some structure is standing at the site. According to the petitioner the structure falls

within the suit property whereas the aforesaid assertion has been denied by learned counsel for the respondents on the ground that in fact Khasra No.1005 is owned and possessed by the respondents/judgment debtors and the structure standing at the site is in Khasra No.1005 only. The structure falling under Khasra Nos.1004 and 1006 has already been demolished and report to that effect was submitted before the Executing Court.

Perusal of the impugned orders would show that there is no reference made to the aforesaid facts by the Courts below.

Keeping in view the facts and circumstances involved in the case, it would be just and expedient to ask the Executing Court to submit a report in respect of existing structure at the spot whether it falls under Khasra No.1005 or not.

Adjourned to 19.12.2018.”.

In pursuance of the aforesaid order, report has been submitted by the Executing Court after getting the demarcation report from the revenue officials. According to this report, there is no construction in khasra No.1006.

During the course of arguments, learned counsel for

the respondents stated that the respondents have no right in respect of khasra No. 1006 nor they will raise any objection in case the factum of delivery of possession of khasra No.1006 is ensured by the Executing Court in accordance with law.

At this stage, without entering into any such fray with regard to any encroachment done by the respondents in khasra No.1006, it would be just and expedient to direct the Executing Court to ensure proper delivery of possession of khasra No.1006 in favour of the decree holder/ petitioner in accordance with law and thereafter, record its satisfaction in respect of the decree being fully satisfied.

Petition stands disposed of accordingly.

April 02, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No