

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

**C.R. No.3444 of 2013 (O&M)
Date of Decision.30.01.2019**

Rajinder Parshad Rathi

...Petitioner

Vs

Harpreet Singh Bhullar and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Jasuja, Advocate
for the petitioner.

None for respondent No.1.

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AMIT RAWAL J. (ORAL)

This case was listed for service of respondent No.2, though respondent No.1 is the contesting respondent. Respondent No.2 expired, therefore, it is necessary to implead legal representatives of respondent No.2.

This revision petition was admitted on 09.09.2016. With the consent of counsel for the petitioner, the same is taken on board.

The revision petition is directed against the impugned order dated 10.01.2013 (Annexure P-4) whereby application (Annexure P-2) submitted under Order 21 Rule 32 CPC for violation of the judgments and decrees dated 01.08.2006 and 26.03.2007, has been dismissed.

Mr. Sandeep Jasuja, learned counsel appearing on behalf of the petitioner-decree holder instituted the suit for permanent injunction restraining the defendants from interfering into peaceful possession. The trial Court partly decreed the suit but the lower Appellate Court vide judgment and decree dated 26.03.2007

restrained the defendants from interfering into peaceful possession over the suit property and from putting any hindrance in the construction being raised over the plot of which site plan was sanctioned from the Municipal Council as well as from narrowing down or squeezing the streets towards eastern and western side of the two plots situated in Gobind Nagri, Abohar.

In the application (Annexure P-2), it was asserted that respondent No.1 encroached upon the street towards eastern and western side of the plot and also created hindrance into the construction of the plot. Respondent is none else but an ex-municipal councillor and had shown disregard/disrespect to the judgment and decree passed by the courts below. The application was dismissed by the trial Court on the premise that the petitioner did not lead any evidence.

There is no representation on behalf of the respondent No.1.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit. The petitioner-decree holder except his own statement did not examine any witness or bring on record material to establish the violation neither photographs/site plan nor assistance of expert was taken to prove the same. In such circumstances, the Court did not have any occasion to form an opinion with regard to disrespect and violation of the judgment and decree. As and when such grievance is redressed, it is obligatory upon the person asserting violation to place on record the material to prove violation.

Having failed to do so, the order under challenge cannot be said to be suffering from any illegality and infirmity, much less, without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

January 30, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No