

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

CR No.3837 of 2014 (O&M)

Date of Decision: November 02, 2019

Jaswinder Pal

.... Petitioner

Versus

Baldev Singh & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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

Mr. Rohit Ahuja, Advocate for the Respondents.

SUDIP AHLUWALIA, J.

This Revision has been preferred against the order dated 19.11.2013 passed by the Ld. Additional Civil Judge (Senior Division) Kapurthala in Ex. No.31 dated 12.12.2009 vide which, the Application filed on behalf of Gram Panchayat, Billpur seeking withdrawal of the Warrant of Possession issued in Execution of the Judgment & decree passed in favour of Decree-holder Baldev Singh by the Trial Court on 1.5.2009 was dismissed.

2. Background of the matter is that the Decree-holder's Suit under Section 6 of the Specific Relief Act against 11 Defendants/JDs was decreed by the Ld. Court below and such Judgment & Decree had attained finality.

3. The Decree-Holder approached the Court for execution of the same after which, Warrant of Possession was issued for ensuring that possession in his favour was restored. The Gram Panchayat, Billpur however, filed its Application on 11.6.2010 seeking withdrawal of

Warrant of Possession by contending that the Decree-Holder was himself in illegal possession of the land in question, and that subsequent to the Decree, the Applicant had taken over its possession vide Rapat No.446. It was also contended in the Application that the land in question was thereafter given on Lease by the Gram Panchayat to the present Petitioner Jaswinder Pal on 10.7.2009.

4. The Ld. Court below in rejecting the aforesaid Application had observed inter-alia -

“Executing Court cannot go beyond the decree and it has to execute the decree as it stands. Executing Court must taken the decree as it stands and execute according to its terms. It has no power to vary or modify the terms. It has no power to question its legality or correctness, no inquiry into its regularity or correctness can be permitted in such proceedings. There is only exception to this general rule and that is that where the decree sought to be executed is nullity for the lack of inherent jurisdiction in Court passing it. In view of the aforesaid discussion, the application in hand is hereby dismissed but is made clear that dismissal of this application would make no way mean that proceedings initiated in other Court are not to be given effect to.”

5. It is to be further noted that it was not the present Petitioner himself, who had filed the Application seeking withdrawal of the Warrant of Possession (Annexure P-3), which was dismissed vide the impugned order. To that extent, he would not appear to have any

locus standi to file the Application in the first place. At any rate, from Rapat No.446, it is seen that possession of the decretal land was taken over by the Gram Panchayat peacefully from none others than the Truck Union, Nadala, Bholath Road, Billpur, which itself was the Defendant/JD No.1 in the relevant proceedings. The JDs were undoubtedly bound by the Decree passed against them, and in the circumstances their act of delivering possession peacefully to the Gram Panchayat Officer was itself in flagrant violation of Decree passed against them. In such circumstances, the very fact that the Gram Panchayat itself has not chosen to challenge the order rejecting its Application by the Executing Court clearly indicates manipulation and collusion on the part of the JDs.

6. From his side, the present Petitioner Jaswinder Pal in any case has been unable to place on record any document whatsoever to show that physical possession of the disputed land was actually handed over to him on any specific date.

7. No merits. Dismissed.

(SUDIP AHLUWALIA)
JUDGE

November 02, 2019
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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |