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

**CM No.17983-CII of 2019 in/and
Civil Revision No.4411 of 2016 (O&M)
Date of Decision: 30.09.2019**

**Brahmjeet
Vs
Surjit Kaur**

.....Petitioner

....Respondent

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

Present: Mr. S.P. Soi, Advocate
for the petitioner.

Mr. Naveen Batra, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

CM No.17983-CII of 2019

Prayer made in this application is for considering the application for preponing the date of hearing of the main case.

Notice of this application was issued to the learned counsel opposite for final disposal for today.

After hearing learned counsel for the parties and for the reasons mentioned in the application, the same is allowed.

With the concurrence of learned counsel for the parties, main case is taken up today for final disposal.

Civil Revision No.4411 of 2016 (O&M)

[1]. Petitioner seeks to assail the order dated 18.05.2016

passed by the Civil Judge (Junior Division) Hoshiarpur vide which the application for amendment of the sale deed was dismissed.

[2]. Perusal of the record would show that a suit for specific performance was decreed against the petitioner on 30.11.2012. Defendant was proceeded against *ex parte* in the said suit. *Ex parte* decree for possession by way of specific performance of agreement to sell dated 07.09.2007 in respect of suit property was passed in favour of the plaintiff and against the defendant/petitioner. Defendant was directed to execute the sale deed in favour of the plaintiff/decreed holder after receiving the balance sale consideration of Rs.1 lakhs within two months from 30.11.2012, failing which the plaintiff/decreed holder was entitled to get the sale deed executed with the process of the Court. A decree for permanent injunction was also passed restraining the defendant/petitioner from alienating the suit property to anyone except the plaintiff/decreed holder.

[3]. Execution of the aforesaid decree was filed by the decree holder, in which objection were filed by the judgment debtor/petitioner on the premise that the suit property was a plot, whereas the decree has been passed in respect of house. The objections were dismissed on 07.08.2015 against which CR No.5833 of 2015 was filed by the petitioner. At the time of

issuance of notice of motion on 08.09.2015 in the aforesaid revision petition, the Co-ordinate Bench of this Court passed the following order:-

“Having argued the matter at some length, learned counsel for the petitioner, on instructions, submits that he does not wish to press the present petition on merits, and thus, the petitioner be only afforded a reasonable time to hand over the actual, physical and vacant possession of the house in question to the respondent-decree holder.

Notice of motion.

Process dasti as well, with liberty to serve the respondent through her counsel before the Executing Court.

Let an affidavit, in terms of the statement made by learned counsel for the petitioner, be furnished within a week from today, with the Registry of this Court, as also before the Executing Court.

Adjourned to 19.09.2015

Status quo as it exists today shall be maintained till the adjourned date of hearing.

To be shown in the urgent list.”

[4]. Thereafter the Co-ordinate Bench vide order dated 21.09.2015 disposed of the aforesaid revision petition on the basis of no objection given by the respondent/decree holder for giving four months time to the petitioner/judgment debtor to vacate the demised premises. While disposing the said revision petition, following terms were recorded by the Co-ordinate Bench of this Court:-

“1. The petitioner-judgement debtor shall continue to

occupy the demised premises for a period of four months from today i.e. upto 20.01.2016.

2. *The petitioner-judgement debtor shall defray the electricity/water charges for the period he would occupy the demised premises.*

3. *The petitioner-judgement debtor shall vacate and hand over the actual and physical possession of the demised premises, on or before the stipulated date i.e.20.01.2016, failing which respondent-decree holder shall be free to execute the decree.*

4. *The petitioner-judgement debtor shall furnish an undertaking in the form of an affidavit in the above terms, with the Executing Court, within a period of one week from today, failing which, the respondent-decree holder shall be at liberty to execute the decree forthwith.”*

[5]. Thereafter the executing Court proceeded to execute the decree in totality. After execution of sale deed, possession has already been delivered to the decree holder and the decree has already been satisfied and it has been so recorded by the executing Court. As on date there is no execution pending in respect of the decree in question.

[6]. In view of facts and circumstances of the case, the petitioner/judgment debtor cannot be allowed to continue with the litigation on a decided issue. The objections filed by the petitioner in the context of differentiation of the plot viz-a-viz. house have already been dismissed by the executing Court on 07.08.2015 against which the CR No.5833 of 2015 was disposed of directing the petitioner to vacate the premises within

stipulated time i.e. on or before 20.01.2016. After execution of the sale deed, possession has already been delivered to the decree holder.

[7]. There has to be an end to a litigation at some point of time. The Concept of Finality of Judgement has been explained by the Hon'ble Apex Court in **Indian Council for Enviro-Legal Action vs. Union of India and others., 2011(3) R.C.R. (Civil) 779.** The maxim '*interest Republicae ut sit finis litium*' is to the effect that the litigation must end after a long hierarchy of remedies at some stage. It is necessary to put a quietus. It is rare that in an adversarial system, despite the judges of the highest court doing their best, one or more parties may remain unsatisfied with the most correct decision. Opening door for a further appeal could be opening a flood gate which will cause more wrongs in the society at large at the cost of rights. The conclusion is that the controversy between the parties must come to an end at some stage and the judgment of the higher court must be permitted to acquire finality. It would be improper to allow the parties to file application after application in the endless process. Finality of judgment is absolutely imperative and great sanctity is attached to the finality of the judgment.

[8]. Allowing the parties to reopen the concluded judgments on the basis of some untested material would be an abuse of

process of law and the same would have far reaching adverse consequences on the administration of justice. A settled thing should not be allowed to be unsettled. The judgment passed by the Hon'ble Apex Court is not amenable to the judicial review that too at the stage of execution on the basis of some material which was never the subject matter of substantive litigation upto the Hon'ble Apex Court. Even correctness of the decision on merits after it has become final upto the Hon'ble Apex Court cannot be questioned by invoking Article 32 of the Constitution of India. The principle of finality of litigation is based on high principle of public policy. It is equally important to prevent unscrupulous litigant from taking undue advantage through the process of the Court. It is an onerous duty and obligation of the Court to ensure undue enrichment is not drawn by the losing party by exercising the process of the Court, even after finality of litigation upto the Hon'ble Apex Court. While curbing the aforesaid tendency, the Court would be fully justified in imposing punitive costs where legal process has been abused. Doctrine of *stare decisis* is very valuable principle of precedent which cannot be departed in the ordinary circumstances. The view expressed by the Hon'ble Court in **Manganese Ore (India) Ltd. vs. The Regional Assistant Commissioner of Sales Tax, Jabalpur (1976) 4 SCC 124** and **Green View Tea & Industries**

vs. Collector, Golaghat and another, 2002(2) R.C.R. (Civil)

362 can be relied in the aforesaid context.

[9]. The attempt to re-open the case by the petitioner cannot be appreciated on the aforesaid fundamental principle which sustained rule of law in ensuring finality in litigation. The aforesaid principle has universal obligation which means that the litigation must end at some point of time and it would be in the interest of the State that there should be an end to the litigation. No one should be vexed twice in the litigation for one or the same cause. Even the party can be bound down by constructive *res judicata*. The issue cannot be allowed to be raised in a subsequent proceedings or in the same proceedings time and again. The Court should not be hampered by any technical rule of interpretation. The principle of law highlighted by the Hon'ble Apex Court in **M. Nagabhushana vs. State of Karnataka & Others, 2012(1) R.C.R. (Civil) 807** can be relied in the aforesaid context.

[10]. No technical objection to defeat the decree particularly after dismissal of the objections by the executing Court on 07.08.2015 and decision of earlier CR No.5833 of 2015 can be entertained at this stage and the controversy must end here only.

[11]. For the reasons recorded hereinabove, I find no justification to interfere in this revision petition. The revision petition is accordingly dismissed. All civil misc. applications, if pending are also accordingly disposed of.

September 30, 2019

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No