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

CR No. 6098 of 2017 (O&M)
Date of Decision: 24.07.2019

Pawaneshwar Singh

-Petitioner

Vs

Surinder Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. Vishal Munjal, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has preferred this revision petition against the order dated 15.04.2017 passed by Additional Civil Judge (Senior Division), Pathankot vide which application under Order 21 Rule 32 CPC was dismissed.

Perusal of the record would show that a suit for permanent injunction was filed by the petitioner- decree holder seeking to restrain the defendant-respondent from interfering, encroaching, dis-possessing the plaintiff from his residential house as shown in blue colour marked by letters ABCDEFGHIJ and from raising wall at point AB and installing gate at point AJ in the residential house.

The suit was decreed vide judgment and decree dated 16.07.2012 and the defendant was restrained from interfering, encroaching, dis-possessing the plaintiff from the residential house as shown by the aforesaid letters and from raising wall at point AB and installing gate at point AJ.

The counter claim set up by the defendant-respondent was dismissed.

Defendant-respondent assailed the judgment and decree passed in the suit as well as in the counter claim before the lower Appellate Court. The appeal against decree was dismissed, however appeal filed against counter claim was partly allowed and the counter claim was decreed with costs. Plaintiff was restrained from encroaching portion ALK as reflected in the site plan (Ex.P1) forcibly and illegally under the garb of raising construction of his wall from point A to C.

Thereafter, execution was filed by the plaintiff- decree holder under Order 21 Rule 32 CPC on the ground of alleged violation of the decree by the respondent-defendant.

The Court has found that the decree holder has not pleaded the date of alleged violation of decree. Particulars of interference with reference to date, time and manner have not been disclosed by the decree holder in the pleadings as well as in the evidence while appearing as AW1.

The properties in possession of the parties are distinct. Violation of decree in the absence of such particulars cannot be presumed.

Reference can be made to **Surinder Singh vs Balwant Singh (dead) through LRs and others, 2017(2) RCR (Civil) 452.**

The alleged violation has to be pleaded with reference to date, time, place and manner of interference.

In my considered opinion, the impugned order does not suffer with any error of jurisdiction.

This revision petition is found to be totally devoid of merits and the same is accordingly, dismissed.

24.07.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No