

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CR-6606-2018

Date of Decision:05.03.2019

Harjinder Kumar and another

....Petitioners

Versus

Seema Rani and another

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ravish Bansal, Advocate for the petitioners.

AMIT RAWAL, J. (Oral):-

The short point in this petition is whether the petitioners/decreed-holders can be permitted to redress the grievance by invoking the provisions of Order XXI Rule 32 of the Code of Civil Procedure for seeking implementation of the judgment and decree dated 05.04.2014, passed by the learned Additional Civil Judge (Senior Division) Faridkot. The petitioner plaintiff instituted the suit for injunction against the defendant and after contest the trial Court passed the following decree:-

“This suit coming on this date i.e. 5.4.2014 before me (Vishesh, PCS, Additional Civil Judge, Senior Division, Faridkot) in presence of Sh. Jatinder Marria, Advocate, counsel for the plaintiffs and Sh. R.S. Romana, Advocate, counsel for defendants. It is ordered that the suit of the plaintiffs is decreed with costs and defendants are restraining from blocking the

street existing on the Northern and Western side of the house of plaintiffs as depicted in the head note of the plaint and from blocking the windows and ventilations on the ground floor and first floor of the house of plaintiffs illegally, forcibly and without due process of law.”

Application under Order XXI Rule 32 CPC was submitted on 14.05.2014 i.e. almost one month after the decree alleging the disobedience. It was asserted that the defendants had blocked the street existing on the Northern and Western side of the house of the plaintiffs which is totally in disobedience of the judgment & decree and they even blocked the window of house of the plaintiff by raising a *toga* to harm and harass them. The trial Court framed issues and the petitioners examined three witnesses himself as AW1, Banarsi Dass-AW2, Gurwinder Singh-AW3 and Ahlamad. SDM Office, Faridkot. Defendant examined two witnesses , himself as RW2 and Satwinderjit Singh RW1 and closed the evidence.

Counsel appearing on behalf of the petitioner submitted that the defendant did not deny the existence of *toga* and giving cause to the Court to take action and allow the application under Order XXI Rule 32 CPC as no person can be permitted to show disrespect and disregard to the orders of any of the Court including trial Court.

I have heard learned counsel for the petitioners.

To prove the aforementioned application, the plaintiffs did not lead any evidence regarding existence of *toga* or to produce photograph and examine any expert. *Prima facie* their assertion in the application in the absence of evidence regarding alleged violation of the decree remained

unsuccessful. In other words, the petitioners fail to discharge their onus and the impugned order passed in the application cannot be said to be suffering from any infirmity and illegality.

In view of the above, the present Revision Petition is dismissed.

05.03.2019
anju rani

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No