

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

BEDO AND ORSPetitioners
Vs
EXECUTIVE ENGINEERRespondent

[2]. Perusal of the record would show that a civil suit for declaration was filed by the plaintiffs alleging that they were owners in possession of the land which was allegedly taken over by the defendants-State for construction of Nigana Canal. The suit was decreed vide judgment and decree dated 20.08.2009. The operative part of the decree reads as under:-

“It is order that the suit of the plaintiffs succeeds and hereby decreed with costs and it is hereby ordered that the plaintiffs be paid the compensation qua the land owned by them which has been constructed upon by the defendants within a period of six months as per terms mentioned in Ex.DW-1/A i.e. the testimony of Mohinder Singh SDO after due demarcation.”

[3]. Thereafter execution was filed by the decree-holders/petitioners wherein statement of both the parties were recorded. The decree holders have already received an amount of Rs.7,41,848/- from the Department and refund of an amount of Rs.14,402/- was already ordered to be made in favour of the decree holders which was lying deposited in the Court. The decree holders reserved their right of appeal.

[4]. The decree holders also stated that they have no objection in case Department proceeds to get ownership of the disputed land in their favour. The statement of SDO, Irrigation Department was also recorded to the effect that the Department has no objection, if the refund voucher of Rs.14,402/- is issued in favour of the decree holders i.e. the amount which was lying deposited in the Court. With the aforesaid undertaking, the petitioners withdrew the execution as fully satisfied vide order dated 29.07.2016 passed by the Addl. Civil Judge (Sr. Divn.) Tosham.

[5]. Thereafter, an application under Order 39 Rule 2-A CPC was filed by the defendants/Executive Engineer, Jui Water

Services, Bhiwani on the premise that the decree holders have not complied with the commitment made before the civil Court.

[6]. I have considered the submissions made by learned counsel for the parties.

[7]. As on date there is no proceedings pending in any court of law, nor any injunction was ever issued in terms of Order 39 Rules 1 and 2 CPC. The violation of the present type is not covered under the scope of Order 39 Rule 2-A CPC. The respondent would be at liberty to initiate necessary proceedings in accordance with law for the transfer of land in their favour in view of statements made by the parties before the executing Court. The rigor of proceedings under Order 39 Rule 2-A CPC culminates along with the main suit. There is no order of injunction passed by the Court at any point of time.

[8]. In view of above, this revision petition is accepted. The impugned order dated 16.09.2017 passed by the Addl. Civil Judge (Sr.Divn.) Tosham is hereby set aside. However liberty is granted to the respondent to initiate any other proceedings in accordance with law.

May 16, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No