

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 114

Case No. : C. R. No. 1473 of 2019 (O&M)

Date of Decision : March 01, 2019

Grewal Sports Association, Kila Raipur
Tehsil and District Ludhiana Petitioner

vs.

Surinder Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Ms. Samiya Singh, Advocate
for the petitioner.

Mr. M. L. Saggar, Senior Advocate
with Mr. Rohit Joshi, Advocate
for the caveators-respondents.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 29.01.2019, passed by the Civil Judge (Junior Division), Ludhiana (for short – the Executing Court), through which warrants of possession have been issued in favour of the respondents/decreed-holders.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that the respondents as *Pattidars* of Village Kila Raipur, Tehsil and District Ludhiana filed a suit in a representative capacity seeking therein to be declared owners of property measuring 10B-15B-6B comprised in Khewat No. 317, Khatauni No. 348/1,

Ludhiana (for short – the suit property). Mandatory injunction to direct the petitioner, who was defendant no. 1 in the suit, to vacate the suit property, was also sought. The petitioner was further sought to be restrained from making any construction, addition and alteration in the suit property. The respondents had further assailed the order dated 08.10.1985 passed by the Collector in the case titled as “*Grewal Sports Association vs. Gram Panchayat Kila Raipur, Tehsil and District Ludhiana*” as also the mutation entered and sanctioned in favour of the petitioner.

On being put to notice, the petitioner along with other defendants appeared before the Trial Court and through their written statement, refuted the respondents' claim. Thereafter, the Trial Court framed issues, on which both the parties led evidence, after sifting of which, through judgment and decree dated 10.04.2012, the Trial Court partly decreed the respondents' suit by holding the respondents/*Pattidars* to be owners of the suit property. However, their aforesaid prayer for mandatory injunction as also for permanent injunction was declined. Both parties filed appeals. The Appellate Court allowed the respondents' appeal and thus, in addition to the aforesaid relief granted by the Trial Court, it granted the mandatory injunction, as prayed for by the respondents. Meaning thereby, that the respondents were held entitled to evict the petitioner from the suit property. So far as the appeal filed by the petitioner was concerned, the same was dismissed. Against the dismissal of its appeal by the Appellate Court, the petitioner knocked the doors of this Court by way of two second appeals being **RSA No. 82 of 2016 – Grewal Sports Association vs.**

Surinder Singh and others and **RSA No. 111 of 2016 – Grewal Sports Association vs. Surinder Singh and others.** Both these appeals came up for hearing before this Court on 27.01.2016, on which date, learned counsel appearing on behalf of the petitioner stated that the execution of the proceedings initiated by the respondents be adjourned till 15.02.2016, on which date, the petitioner shall hand over the possession of the suit property to the respondents. Relying on the above statement made by the learned counsel appearing for the petitioner, this Court adjourned the matter to 16.02.2016 and in the meanwhile, stayed the execution proceedings before the Executing Court. On 17.02.2016, in violation of the aforesaid undertaking given to this Court, the possession of the suit property was not handed over by the petitioner to the respondents. Learned counsel appearing for the petitioner simply withdrew the second appeals filed before this Court, forcing the respondents to seek possession of the suit property in the pending execution proceedings. Thereafter, the matter remained pending before the Executing Court and ultimately, after about three years of the withdrawal of the Second Appeals, through order dated 29.01.2019, fresh warrants of possession have been issued to enable the respondents to take possession of the suit property. Such order has been challenged before this Court through the present proceedings.

Learned counsel for the parties have been heard at length.

At the very outset, Mr. M. L. Saggar, learned senior counsel appearing for the respondents submitted that in view of the order impugned in the present proceedings, on 28.02.2019, the respondents have taken

actual physical possession of the suit property.

Learned counsel for the petitioner does not dispute the above fact.

In the suit preferred by the respondents, they have been declared to be the owners of the suit property as also held entitled to evict the petitioner therefrom. On the withdrawal of the Regular Second Appeals by the petitioner on 17.02.2016, such declaration and entitlement in favour of the respondents attained finality. That being so, the impugned order, issuing warrants of possession of the suit property in favour of the respondents, as per which the respondents have already secured possession of the suit property on 28.02.2019, cannot be faulted with, especially in view of the conduct of the petitioner in the Regular Second Appeals filed before this Court, wherein on 27.01.2016, the petitioner had procured an interim order of stay of execution proceedings after undertaking before this Court that it shall hand over the possession of the suit property to the respondents on 15.02.2016 but contemptuously failed to abide by such undertaking and continued to cling on to the possession of the suit property for over three years thereafter i.e. till 28.02.2019, on which date, the petitioner parted with possession but only after a string of orders in that regard were passed by the Executing Court.

Dismissed.

(DEEPAK SIBAL)
JUDGE

March 01, 2019
monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.

