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

CR No. 3578 of 2019 (O&M)
Date of Decision: 28.05.2019

Sunita Devi

-Petitioner

Vs

Rajiv Khurana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Chanderhas Yadav, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.

1. Petitioner has preferred this revision petition against the order dated 16.05.2019 passed by Additional Civil Judge (Senior Division), Mahendergarh vide which the objections filed by the petitioner before the Executing Court were dismissed.
2. Perusal of the record would show that plaintiff-respondent filed a suit for permanent injunction restraining the defendant-petitioner from interfering into the possession and user of plaintiff over the suit property which is pucca house having defined dimensions.
3. The suit was contested by the defendant-petitioner. Both the parties went to trial on definite issues.
4. While deciding issue No.1, the trial Court held in para

no.16 to the following effect:-

“Consequently and in view of the aforesaid discussion, plaintiff has succeeded in establishing his possession over suit property in pursuance to lawful title on the basis of sale deed no.3724 dated 22.3.04 Ex.CW1/A while defendant has miserably failed to establish her ownership or possession over suit property. Rather, defendant has clearly been shown to be a stranger qua suit property and in such circumstances, plaintiff being owner in possession over suit property is entitled to injunction restraining the defendant from interfering into possession and user of plaintiff over suit property. This issue is accordingly decided in favour of plaintiff and against the defendant.”

5. Perusal of the aforesaid findings would show that the plaintiff-respondent was in established possession over the property in question and the defendant-petitioner could not establish her ownership or possession over the suit property in any manner, rather the defendant was found to be stranger qua the suit property.

6. The suit was decreed by the trial Court vide judgment and decree dated 31.05.2013. Defendant-petitioner remained unsuccessful in the first appeal before the lower Appellate Court which was dismissed on 19.05.2015. Respondent was dispossessed on 02.10.2015, resultantly, the execution in terms of Order 21 Rule 32 CPC was filed by the decree holder.

7. The petitioner could not establish her possession over the suit property. In the suit proceedings, petitioner sought to rely upon some evidence at the stage of execution which in my considered opinion cannot be entertained as the judgment and decree dated 31.05.2013 passed by Additional Civil Judge (Senior Division), Mahendergarh has already attained finality.

8. Both the Courts below have recorded firm findings of fact that the plaintiff-respondent was in established possession of the property in question.

9. The argument raised by learned counsel for the petitioner for protection of the petitioner for a particular period cannot be entertained as the objections filed by the petitioner are proved to be baseless. The Executing Court has to honour the decree and the petitioner cannot resist the decree on the ground of her mis-deed in dis-possessing the decree holder forcibly on 02.10.2015.

10. No exception can be made to the impugned order

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dated 16.05.2019 passed by Additional Civil Judge (Senior Division), Mahendergarh.

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

28.05.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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