

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 107

Case No. : C. R. No. 5937 of 2019

Date of Decision : September 26, 2019

Raj Kumar Petitioner

vs.

Raghubir Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Satbir Rathore, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 31.05.2019, passed by the Civil Judge (Junior Division), Mukerian (for short – the Executing Court) through which an application filed by the petitioner seeking therein police help for construction of a wall has been dismissed.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that the petitioner had filed a suit seeking therein to restrain the respondents from interfering in his peaceful possession of a house/plot detailed and described in the head note of the plaint (for short – the suit land).

On being put to notice, the respondents put in appearance before the Trial Court and contested the petitioner's claim. On the dispute

raised between the parties, the Trial Court framed issues, on which both the

parties led their evidence. Thereafter, the Trial Court, after sifting the evidence, which had come on record, decreed the petitioner's suit. Resultantly, the respondents were restrained from interfering in the petitioner's peaceful possession on the suit land as also from dispossessing him except in due course of law.

The respondents filed an appeal against the aforesaid decree of the Trial Court, which was dismissed by the First Appellate Court and since no further appeal was filed, the aforesaid decree of the Trial Court attained finality.

In the year 2018, the petitioner, wanted to raise construction on the suit land but was allegedly restrained by the respondents. This led to the filing of an application by the petitioner under Order 21 Rule 32 CPC seeking action to be taken against the respondents for violating the aforesaid decree of the Trial Court. During the pendency of the petitioner's application, another application was filed by the petitioner seeking therein police help to assist him in making the construction. The Executing Court dismissed the petitioner's application on the ground that police help is not to be given in a routine manner, especially when the petitioner's application under Order 21 Rule 32 CPC was pending. Such order of the Executing Court is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

The petitioner's suit for injunction was decreed by the Trial Court on 19.04.2004. Such decree attained finality. Through the aforesaid decree, the respondents were restrained from interfering in the peaceful

possession of the petitioner over the suit land.

In the year 2018, the petitioner wanted to raise construction over the suit property but he was allegedly restrained by the respondents. This led to the filing of an application by him under Order 21 Rule 32 CPC seeking therein to punish the respondents for having violated the aforesaid decree of the Trial Court passed in his favour. During the pendency of afore-referred application, another application was filed by the petitioner seeking therein police help to assist him in raising construction on the suit land.

The petitioner's application for police help is found to have been rightly dismissed by the Executing Court as allowing the same, at this stage, would have virtually resulted in acceptance of the petitioner's application filed by him under Order 21 Rule 32 CPC without any formal adjudication thereupon.

In view of the above, no merit is found in the present petition and the same is hereby dismissed.

Since the petitioner's application is admittedly pending for the last 01 year and 04 months, the Executing Court is directed to dispose of the same within three months from the date of receipt of a copy of this order, in accordance with law.

(DEEPAK SIBAL)
JUDGE

September 26, 2019

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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>