

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

**CR No. 6192 of 2019
Date of Decision:15.10.2019**

RAJNISH AND OTHERS

...Petitioners

Versus

SADHU RAM AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ravinder Bangar, Advocate
for the petitioners.

DEEPAK SIBAL, J. (ORAL)

Respondents No.1 and 2 filed a suit for permanent injunction in which they had pleaded that the property marked as 'ABCD' as shown in site plan Mark-A was owned and possessed by respondent No.1 whereas the property marked as 'GHIJ' as shown in site plan Mark-B was owned and possessed by the petitioners. In year 1999, both the parties agreed to and exchanged the above properties with each-other and to that effect a written agreement dated 11.12.1999 was also entered into between them. It was further the case of respondents No.1 and 2 that the parties further agreed that petitioner No.5 shall have no right in the property exchanged by him and that a passage of 6 feet width would be provided by the petitioners to respondent No.1 so that he could reach to the property given to him. Similarly, respondent No.2 agreed to give 11 feet width passage from his property to the petitioners. In the year 2000, when respondent No.2 started

filling the foundations in the passage given to him as per the aforesaid compromise, the petitioners raised a dispute and attacked respondent No.2. In the above background, a suit for permanent injunction was filed by respondents No.1 and 2 seeking therein to injunct the petitioners from interfering in their peaceful possession.

On being put to notice, the petitioners appeared before the Trial Court and disputed the case set up by respondents No.1 and 2. The grounds raised by the petitioners being not relevant for the purpose of disposal of the instant petition are not being discussed.

On the basis of the evidence led by the parties, the Trial Court dismissed respondents No.1 and 2's suit.

Respondents No.1 and 2 filed an appeal against the dismissal of their suit by the Trial Court which was accepted by the First Appellate Court. Resultantly, the petitioners were restrained from interfering in the peaceful possession of respondents No.1 and 2/plaintiffs.

The petitioners then filed a second appeal before this Court being **RSA No.4298 of 2010, “Mam Chand and others vs. Sadhu Ram and another”**, which was dismissed by this Court on 22.11.2010. Since no further challenge was made by the petitioners, such dismissal attained finality.

When in spite of above restraint order the petitioners continued to interfere in the possession of respondents No.1 and 2, an application was filed by respondents No.1 and 2 before the Executing Court under Order 21 Rule 32 CPC in which through order dated 24.05.2019, the Executing Court restrained the petitioners from interfering with respondents No.1 and

2's possession and directed them to remove the obstructions made by them. However, when the petitioners failed to do so, such obstructions were ordered to be removed through police help. Accordingly the police removed the obstructions and filed a compliance report before the Executing Court to which the petitioners filed objections to the effect that the obstructions had been removed by the police without any demarcation. Such objections were dismissed by the Executing Court through the order under challenge in the present proceedings.

Learned counsel for the petitioners has been heard.

It is not disputed that the injunction suit filed by respondents No.1 and 2 had been decreed in their favour and that such decree attained finality. Accordingly, the petitioners had been restrained from interfering in the peaceful possession of respondents No.1 and 2/plaintiffs. In spite of the same, the petitioners not only interfered in their peaceful possession but also, in violation of the afore referred decree, put obstructions on the suit property in the form of wood, bricks, Gohara etc. In the execution proceedings launched by respondents No.1 and 2/plaintiffs-decree holders, the petitioners were asked to remove such obstructions but when they failed to do so, through order dated 24.05.2019, the Executing Court directed the removal of such obstructions through police help. Such order of the Executing Court was challenged by the petitioners before this Court through Civil Revision No.3897 of 2019, "Mam Chand and others vs. Sadhu Ram and others", which was dismissed on 11.07.2019. Thus, the order of the Executing Court directing the removal of obstructions by the petitioners with police help was affirmed by this Court.

In compliance of the afore-referred order of the Executing Court dated 24.05.2019, the police removed the obstructions caused by the petitioners which were in violation of the decree passed in favour of respondents No.1 and 2 and filed a compliance report before the Executing Court as per which the obstructions had been removed in the presence of the Sarpanch, Revenue Officials and other respectables of the village.

In view of the above, no error is found in the order of the Executing Court in dismissing the petitioners' objections especially when admittedly no land belonging to the petitioners has been encroached upon or illegally possessed by respondents No.1 and 2/decreed-holders and that the obstructions caused by the petitioners have been cleared in furtherance of a decree passed in favour of respondents No.1 and 2 which had attained finality.

Dismissed.

October 15, 2019

Jyoti-IV

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned Yes/No Whether Reportable Yes/No