

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

Sr. No.115

CR No.6729 of 2019

Date of decision: 24.10.2019

Mohinder Singh (deceased) through his LR

....Petitioner

versus

Karam Chand and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 24.09.2019 passed by the Additional Civil Judge (Senior Division), Jalalabad(W), (for short – the Executing Court) dismissing the application filed by the petitioner seeking therein recalling of warrants of possession dated 24.12.2012 issued by the Executing Court on the ground that respondent No.1-decree holder while seeking execution of the decree dated 20.07.1981 was seeking possession of vacant land whereas construction existed on the suit property.

Learned counsel for the petitioner has been heard.

Respondent No.1's suit, filed by him for possession and mandatory injunction, to direct the petitioner and respondents No.7 and 8 to vacate the suit property by removing the malba thereupon was decreed on 20.07.1981. Admittedly, such decree attained finality. In the year 2019, in the execution proceedings initiated by respondent No.1, the

petitioner/judgment debtor has filed an application seeking recalling of the warrants of possession issued by the Executing Court on 24.12.2012 on the ground that in execution of the aforesaid decree in his favour, respondent No.1 seeks possession of vacant land whereas on date there is construction on the same.

A perusal of respondent No.1's suit reveals that through the same he did not seek possession of vacant land. He had prayed for possession of the suit property as also for issuance of mandatory injunction to direct the petitioner/defendants to vacate the suit property by removing the malba/construction material on the land. Such suit of his was decreed in toto by the Trial Court on 20.07.1981. That being so, the application filed by the petitioner is found to be rightly rejected by the Executing Court.

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 24, 2019

Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No