

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6766 of 2019

Date of Decision: 24.10.2019

HARDIP KAUR AND ANOTHER

...Petitioners

Versus

HARBANS KAUR

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. P.P.S. Tung, Advocate for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 06.08.2018 passed by the Civil Judge (Senior Division), Jalandhar (for short-the Executing Court) dismissing the objections filed by the petitioners in the execution proceedings initiated by the respondent through which she had sought to execute the judgment and decree of the Trial Court dated 25.09.2015.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that the respondent filed a suit seeking therein to restrain the petitioners from interfering in the peaceful possession of the respondent, who was the co-sharer of the house, detailed and described in the head-note of the plaint (for short-the suit property). Mandatory injunction to direct the petitioners to hand-over the vacant possession of the area of the house measuring 2 marlas out of the total area of 7 ½ marlas was also sought. Further, recovery of ₹2,000/- per month as *mesne* profit for the unauthorised possession of the petitioner of the suit

property was also claimed.

On being put to notice, the petitioners appeared before the Trial Court and filed their written statement denying the case set up by the respondent.

The grounds on which both the parties had asserted their respective claims being not relevant for the purpose of disposing off the present petition are not being discussed.

The Trial Court after going through the pleadings of the parties and sifting the evidence which had come on record, decreed the respondent's suit as per which the petitioners were directed to hand-over vacant possession of the suit property to the respondent within a period of two months, failing which the respondent was granted liberty to obtain vacant possession of the suit property through the process established by law. The petitioners were further restrained from interfering in the peaceful possession of the respondent. However, the claim for *mesne* profit made by the respondent was rejected.

Admittedly no appeal was filed by the petitioners against the afore-referred judgment and decree of the Trial Court the execution of which is being sought by the respondent. Therefore, the same attained finality.

As per the directions of the Trial Court issued by it through the aforesaid judgment and decree, the petitioners did not hand-over the possession of the suit property to the respondent forcing her to move the Executing Court. Before the Executing Court the petitioners filed objections which were to the effect that on 03.07.2013, the parties had

entered into a compromise as per which the respondent had surrendered her rights qua the suit property in the petitioners' favour. The Executing Court dismissed the petitioners' objections through the order under challenge in the present proceedings.

Learned counsel for the petitioners has been heard.

On 25.09.2015, the Trial Court decreed the respondent's suit through which the petitioners were directed to hand-over vacant possession of the suit property to the respondent within a period of two months failing which the respondent was granted liberty to approach to the Executing Court. Against such decree no appeal was preferred by the petitioners and therefore, the same attained finality.

Even after the passing of the decree when the possession of the suit property was not handed over by the petitioners to the respondent, the respondent filed an application before the Executing Court to which the petitioners filed objections which were primarily based on a compromise dated 03.07.2013 through which allegedly the respondent had surrendered her rights qua the suit property in the petitioners' favour. Such objections are found to have been rightly dismissed by the Executing Court, as the alleged unregistered compromise dated 03.07.2013 was admittedly dated over two years prior to the passing of the decree by the Trial Court but the same had neither been pleaded nor even referred to by the petitioners during the course of the trial.

Dismissed.

(DEEPAK SIBAL)

October 24, 2019

JUDGE

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