

108 RA-CR No.178 of 2019 in
CR No.4411 of 2016(O&M)

Brahmjeet Vs. Surjit Kaur

Present: Mr. S.P. Soi, Advocate
for the applicant/petitioner.

The present review application has been filed for review of order dated 30.09.2019 passed by this Court, dismissing the revision petition.

Learned counsel for the applicant/petitioner seeks to re-argue the case under the garb of review application. While recording factual matrix of the case, this Court has already adverted to the order dated 21.09.2015 passed by the Co-ordinate Bench, vide which earlier CR No.5833 of 2015 filed by the petitioner was disposed of on certain terms and conditions. For ready reference, those conditions are enumerated hereasunder:-

- “1. The petitioner-judgement debtor shall continue to occupy the demised premises for a period of four months from today i.e. upto 20.01.2016.*
- 2. The petitioner-judgement debtor shall defray the electricity/water charges for the period he would occupy the demised premises.*
- 3. The petitioner-judgement debtor shall vacate and hand over the actual and physical possession of the demised premises, on or before the stipulated date*

i.e.20.01.2016, failing which respondent-decree holder shall be free to execute the decree.

4. The petitioner-judgement debtor shall furnish an undertaking in the form of an affidavit in the above terms, with the Executing Court, within a period of one week from today, failing which, the respondent-decree holder shall be at liberty to execute the decree forthwith.”

Thereafter, this Court proceeded to record incriminating facts with reference to proceedings before the executing Court. The executing Court has already executed the decree in totality. Sale deed has already been executed and possession has also been delivered to the decree holder. The decree has already been satisfied and it was so recorded by the executing Court. As on date, no execution proceedings are pending before the executing Court. This Court on the basis of facts and circumstances of the case also recorded that the concept of finality of judgment should be applied in the case and litigation has to end sometime and it is necessary to put a quietus. Reference was made to the ratio as laid down in **Indian Council for Enviro-Legal Action Vs. Union of India and others, 2011(3) RCR (Civil) 779.**

A thing which has been settled should not be allowed to be unsettled. Allowing the party to re-open the concluded case on the basis of untested material would be an abuse of

process of law. It was also observed by this Court that the attempt made by the petitioner to re-open the case cannot be appreciated on the fundamental principle which sustained rule of law in ensuring finality in litigation. By referring to the ratio of **Manganese Ore (India) Ltd. Vs. The Regional Assistant Commissioner of Sales Tax, Jabalpur, (1976) 4 SCC 124,** **Green View Tea & Industries Vs. Collector, Golaghat and another, 2002(2) RCR (Civil) 362** and **M. Nagabhushana Vs. State of Karnataka and others, 2012(1) RCR (Civil) 807,** the revision petition was dismissed on merits. Petitioner cannot be allowed to re-argue the case by filing review application in view of facts and circumstances appearing on record.

The present revision petition i.e. CR No.4411 of 2016 was filed against the order dated 18.05.2016 passed by Civil Judge (Junior Division), Hoshiarpur, vide which application for amendment of the sale deed was dismissed.

Perusal of the record would show that a decree for specific performance was granted against the petitioner on 30.11.2012. Defendant was proceeded against *ex parte* in the said suit. The decree for possession by way of specific performance of agreement to sell dated 07.09.2007 in respect of suit property was passed in favour of the plaintiff and against the petitioner/defendant. Defendant was directed to execute the

sale deed in favour of the plaintiff/decreed holder after receiving the balance sale consideration within two months from 30.11.2012, failing which the decreed holder was held entitled to get the sale deed executed with the process of the Court. Defendant/petitioner was also restrained from alienating the suit property to anyone except the decreed holder.

In execution of the aforesaid decree, the objections were filed by the judgment debtor/petitioner on the ground that the suit property was a plot, whereas the decree was granted in respect of house. Those objections were dismissed by the executing Court vide order dated 07.08.2015 against which CR No.5833 of 2015 was filed by the petitioner. The said revision petition ultimately culminated on 21.09.2015 when the Co-ordinate Bench was pleased to dispose of the same on the terms as recorded in the preceding para of the order. After disposal of the previous revision petition, nothing survives as to the *differentia* in terms of nature of property.

In view of findings recorded by this Court in terms of para Nos.5 to 10, no indulgence can be granted in favour of the petitioner as the decree has already been satisfied and no execution proceedings are pending before the executing Court. It would be improper to allow the petitioner to file application after application in the endless proceedings in negation to the

sanctity attached to the finality of judgment.

For the reasons recorded hereinabove, there is no scope to interfere in the review application and the same is accordingly dismissed.

November 06, 2019
Prince

(RAJ MOHAN SINGH)
JUDGE