

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.11722 of 2018(O&M)
Date of Order:15.01.2019

Sujjan Kaur(since deceased) through her LR Harbir Singh

..Petitioner

Versus

Budh Singh (deceased) through his LR Harpreet Singh
Nijjar

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S.Brar, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

Judgment Debtor is in the revision petition against the order passed by the learned Executing Court dismissing objection petition filed by the Judgment Debtor against the warrants of possession.

Decree holder filed a suit for possession of a house comprising of 8 rooms, store, verandah, open space, kitchen, bathroom constructed on a plot measuring 1 kanals and 5 marlas. Of course, reference was also given to Khasra No.270. However, the property was also identified by the details of the properties located on all four directions. In the suit, there was no dispute with regard to identification of the property and the defendant claimed that he has become owner by way of adverse possession. The civil suit was decreed vide judgment and decree dated 25.11.2011, which has been affirmed in the first appeal as also in the second appeal.

When the execution petition was filed, initially the learned

Executing Court passed an order for carrying out digital demarcation of the property. However, warrants of possession were received back with the report that digital demarcation is not possible on the spot because it is entirely constructed area. Keeping in view the aforesaid facts, the learned court issued warrants of possession in accordance with the decree.

Learned counsel for the judgment debtor has vehemently contended that once digital demarcation was ordered, the Executing Court could not recall the same. He further submitted that there is a reference in the suit to land comprised in khasra no.270 and therefore, the decree for possession could not be executed on the basis of the properties in dispute located on all four directions.

This court has considered the submissions, however, find no substance therein.

As regards digital demarcation, the Executing Court directed the revenue authorities to carry out the same but once the report was submitted that the digital demarcation was not possible, the court was left with no choice but to proceed with the execution petition. Hence, the order of digital demarcation has not been recalled in the strict sense.

Still further, once the property subject matter of execution is identified by the properties located on all 4 directions and it is part of a residential area, the khasra number loses its significance. The identification of the property was never the issue raised in the suit. Parties were ad-idem with regard to identification of the property. Since Judgment Debtor has already lost upto the High Court and the decree has become final, the decree so passed is required to be executed. The decree was passed on 25.11.2011 and already more than 7 years have elapsed. Even

regular second appeal was dismissed more than 5 years back. In such situation, no fault can be found with the impugned order.

The revision petition is dismissed.

January 15, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No