

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

CR-7963-2019
Decided on : 10.12.2019

Jasmit Singh

..... Petitioner

Versus

Gurjinder Singh & anr.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. G.S.Madaan, Advocate
for the petitioner.

Manjari Nehru Kaul, J.

Challenge in the instant revision petition is to the order dated 27.09.2019 (Annexure P-7) passed by Addl. Civil Judge(Sr. Div.) Patiala vide which the objections filed by the petitioner has been dismissed.

Learned counsel for the petitioner contends that the learned court below erred in dismissing the objections filed by the petitioner on the ground that he had failed to summon the relevant record of Municipal Corporation, Patiala which in turn could support his stand qua the record to the decree being inexecutable.

Heard learned counsel for the petitioner and perused the impugned order.

The main witness OW-1 Chanan Singh during his cross-examination stated that he had prepared the site plan on the instructions of the petitioner-objector and had no personal knowledge of the fact as to whether the property in dispute was actually in existence at the spot or not. Further, even OW-2 Amarjit Singh during his cross-examination stated that the Judge Plaza was approved by Municipal Corporation, Patiala and he had also seen the No Objection Certificate issued by the Municipal Corporation,

Patiala qua the construction of Judge Plaza. This testimony of OW-2 Amarjit Singh is at variance to the pleaded version of the petitioner-objector whose consistent case is that due to the restraints imposed by the Municipal Corporation, the construction of the market could not be completed.

I am in agreement with the trial court that the best evidence for proving the petitioner's version would have been the documents filed by him before the Municipal Corporation in respect of approval of the project but a perusal of the record of the Municipal Corporation reveals that there was no such document available on record. Thus, the best evidence, which could have been produced to substantiate his case, was the site plan sanctioned by the Municipal Corporation but for the reasons best known to the petitioner, same was withheld. So much so, the petitioner himself did not even step into the witness box in support of his own pleaded version. It is very evident therefore, that the objections which had admittedly been filed at a much belated stage were with the sole aim to stall the execution proceedings and to preclude the decree-holders from reaping timely benefit of the decree passed in their favour. Admittedly, the petitioner has failed to discharge the requisite onus to establish that the shops did not exist at the spot.

Consequently, the present petition stands dismissed.

10.12.2019
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No