

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

CR No.8639 of 2015 (O&M)
Date of decision: 3rd March, 2020

Rajesh Kumar

... Petitioner

Versus

Usha Rani & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ravi Malik, Advocate for the petitioner.
Ms. Manveen Narang, Advocate for
Mr. Harinder K. Arora, Advocate for respondent No.1.
None for respondent No.2.

FATEH DEEP SINGH, J.

Usha Rani (then plaintiff) present respondent filed against defendant Surender Pal a suit for possession by way of specific performance of an agreement to sell dated 05.03.2003 with consequential relief of permanent injunction. The Court of learned Civil Judge (Junior Division), Panipat vide judgment and decree dated 02.04.2010 decreed the suit of the plaintiff directing the plaintiff to pay remaining sale consideration of ₹ 8,000/- after adjusting the cost of the suit within one month from the date of judgment and decree and subsequently the defendant shall execute and get registered the sale deed in favour of the plaintiff failing which the plaintiff would be entitled to get the same executed through process of the Court.

Upon hearing Mr. Ravi Malik, Advocate for the petitioner; Ms. Manveen Narang, Advocate appearing on behalf of Mr. Harinder Kumar Arora, Advocate for respondent No.1 and perusing the records.

It is fairly conceded at the bar by learned counsel for the petitioner that the said judgment and decree has since then attained finality. An execution application was filed by the decree-holder Usha Rani under Order XXI Rule 11 CPC and during the course of the same, objections under Section 47 Order XXI Rule 58 CPC read with Section 151 CPC were moved by one Rajesh Kumar, present petitioner, against the decree-holder on the grounds that the applicant is in possession of 20 square yards of the suit property and which possession is there with him since the year 1991. In what capacity, by what means he claims to be the owner and in possession has not been prima facie brought on the records by the then applicant (now revisionist). Rather what is perceivable is that the applicant with a view to defeat the fruits of the judgment and decree in favour of decree-holder is trying to collude with the judgment debtor and on a false and fabricated pretence has tried to overawe the due execution of the judgment and decree. Rather from this conduct of the applicant revisionist, it appears to be not only dilatory but misuse of the process to defeat the operation of law which was under way on a purely false, frivolous and fabricated plea knowingly fully well of the same. It is after the Executing Court has issued warrants of possession of the

property in question against the judgment debtor, the present petition has sought to be crystallize by machination of the petitioner applicant. Even otherwise, to the very specific query of the Court learned counsel for the revisionist could not show by any means in any tangible and prima facie evidence for the Executing Court to have taken note of and considered the plea of the applicant (now revisionist). This Court rather feels that such like devises set up by errant persons to overrun the law need to be dealt with a heavy hand, lest the very purpose of dispensation of justice would stand defeated. There being no merit, the present petition stands dismissed subject to payment of ₹ 50,000/- as special costs to be paid to the decree-holder.

(FATEH DEEP SINGH)
JUDGE

March 3, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No