

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

CR-880-2019

Date of Decision: 08.01.2020

RAJESH &amp; ANR.

...Petitioners

Versus

VIRENDER SINGH &amp; ORS.

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. S. R. Hooda, Advocate  
for the appellants.

Mr. M. S. Rana, Advocate for  
Mr. Ashish Kapoor, Advocate  
for respondent no. 6.

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**ANIL KSHETARPAL, J. (ORAL)**

Judgment debtor is in revision against order passed by Executing Court dismissing application filed by the judgment debtor no. 3 for appointment of Local Commissioner to give report with regard to status of the alleged wall. The Civil Court, while decreeing the suit filed by the decree holder for mandatory and permanent injunction, has held as under:

“As a sequel to my above discussion and findings, the suit of the plaintiffs succeeds and is hereby decreed to the effect that defendants are restrained from interfering into the existence of walls JL, AM and MHID by demolishing it forcibly and illegally. Decree-sheet be drawn accordingly. File be consigned to the record room after due compliance.”

Decree holder after alleging that the aforesaid decree has been violated, filed a execution petition under Order 21 Rule 32 CPC. The aforesaid execution petition is pending before the Executing Court for the last three years. Learned

Executing Court, while dismissing the application filed by the judgment debtor, has held that the application has been moved only to defeat the rights of the decree holder under the Court decree and delay the decision of the execution petition.

This Court has heard learned counsel for both the parties at length and with their able assistance gone through the paper book. In the considered view of this Court, there is no reason to interfere with the discretion exercised by the Executing Court. The Court has given plausible reasons to dismiss the application. In the execution petition of such nature, the judgment debtor is required to prove that he has not violated the decree.

In view thereof, no ground to allow the application has been made out.

Dismissed.

**January 08, 2020**  
*Mehak Huria*

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether reasoned/ speaking  
Whether reportable

Yes/No  
Yes/No