

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

Civil Revision No.1645 of 2020

Date of Decision:20.3.2020

Sukhchain Singh (since deceased) th. LRs. ...Petitioners
Versus

Indira Rani and others ...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.H.S.Batth, Advocate
 for the petitioners

RAJIV NARAIN RAINA, J. (ORAL):

1. Prayer in this petition is for setting aside the impugned orders dated 5.10.2018 (Annex.P4) and 31.1.2020 (Annex.P10), passed by the Executing Court, Patti, whereby the property of the petitioners has been attached, the application for releasing the property has been dismissed, the auction order under Order 21 Rule 66 CPC have been allowed and the sale warrants against the property of the petitioners have been issued.

2. Heard learned counsel for the petitioners.

3. This petition is dismissed with a direction to the Executing Court that it shall execute the decree, without any let or hindrance from any quarters, in conformity with the reasons contained in the judgment. The executing Court shall ensure or may have by now, the task of identification for removing the encroachment marked as “A, B, C and D” in the site plan duly proved in the suit. Any construction made on the encroachment is the problem of judgment-debtor and he can remove the malba at his own expense or it may be removed at the expense of the unsuccessful defendant-judgment-debtor, in case of failure to carry out the demolition and removal of debris from site to a place meant for tipping the *malba* or to his own land.

4. At this stage, learned counsel for the petitioners has made a

request that the LR's of the deceased-defendant/s be provided police protection to demolish the illegal construction and remove the *malba* at their expense, so that the work is carried out peacefully.

5. I have no doubt that the Executing Court would consider this aspect by gauging the ground situation and order accordingly by ensuring that the construction is removed within seven days from the date of receipt of the certified copy of this order on the file of the learned Civil Judge(Junior Division) Patti, where the execution proceedings are pending. The judgment-debtors will desist any attempt to encroach on the suit land again.

6. The petitioners will immediately furnish an undertaking in terms of this order before the Executing Court upon which the warrants of attachment and sale of agricultural land of the LR's of the petitioner shall not be executed. The failure to comply would result in automatic vacation of this order and dismissal of the petition simplicitor by restoring the impugned order.

March 20, 2020
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No
Yes/No