

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2055-2020
Date of Decision: 24.07.2020

Bhupinder Kaur

....Petitioner

Versus

Amrik Singh Jeji

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vijay Pal, Advocate, for the petitioner.

Mr. Kanwal Goyal, Advocate,
for the Caveator-respondent.

HARNARESH SINGH GILL, J. (ORAL).

Challenge in the present petition is to the order dated 19.06.2020 passed by the Executing Court, whereby the application filed by the petitioner to direct the respondent to file an undertaking in the Court for handing over the vacant possession of the property to the petitioner, has been dismissed.

The decree in this case was passed on 06.02.2007. The first appeal filed by the Judgment Debtor was dismissed on 08.05.2007. The Regular Second Appeal filed by the Judgment Debtor was also dismissed by this Court on 18.03.2019.

Learned counsel for the petitioner contends that the decree has attained the finality and in the execution proceedings before the Executing Court, the Judgment Debtor is lingering on the matter on one pretext or the other. It is further contended

that earlier, the Executing Court had issued warrants of

possession, but the said order was challenged by the Judgment Debtor by way of CR-752-2020 before this Court. The said revision petition was disposed of by a Coordinate Bench of this Court vide order dated 03.02.2020 with liberty to the Judgment Debtor to file an application before the Executing Court to vacate and hand over the vacant possession of the suit property to the Decree Holder after harvesting the crops. The order dated 03.02.2020 passed by the Coordinate Bench, would read as under:-

“Judgment Debtor-petitioner has filed the present revision petition against the warrants of possession issued by the Executing Court.

Learned counsel for the petitioner, after arguing for sometime, prays that the Judgment Debtor should be permitted to vacate and hand over the vacant possession of the suit property after harvesting crops. He relies upon Volume 1, Chapter 12-G of the High Court Rules and Orders.

Without commenting upon the merits of the case, the present revision petition is disposed of with liberty to the Judgment Debtor to file an application before the Executing Court in this respect which shall be disposed of by the Court in accordance with law expeditiously.”

Vide the impugned order, the Executing Court has dismissed the application filed by the Decree Holder, on the ground that as the crops are still standing on the land in question, no order could be passed by the Executing Court in this regard.

On 03.02.2020, the Judgment Debtor had undertaken before this Court to vacate and hand over the vacant

possession of the suit property after harvesting the crop. As per the crops season, the harvesting of the crop is normally done in April-May of the calendar year. However, as per the version of the Judgment Debtor before the Executing Court as also before this Court, maize and narama crops are standing on the suit land. Thus, it seems that the Judgment Debtor had sown the aforesaid crops after the earlier harvesting season was over in April-May, 2020.

On the last date of hearing i.e. 20.07.2020, this Court had specifically put a query to the learned counsel appearing for the respondent-Caveator as to when the said crops will be harvested and when the land will be handed over to the decree holder. However, today, there is no specific response to the aforesaid query from the Judgment Debtor.

This Court finds that the Judgment Debtor had sown the aforesaid two crops of Maize and Narama, with a view to defeating the rights of the Decree Holder and seeming in utter defiance of the undertaking given before this Court. The Decree Holder is an old aged lady of 85 years. As noticed above, the decree in this case was passed way back in 2007 and the same has attained finality. More than a period of 13 years has elapsed since then. Thus, in my opinion, the Executing Court was not justified in dismissing the application filed by the Decree Holder. It may be noticed that the Decree Holder had only sought for an undertaking by the Judgment Debtor before the Executing Court to hand over the vacant possession of the land and that too in compliance of the order passed by the Coordinate Bench of this

Court on 03.02.2020. The finding of the Executing Court that the matter does not involve any urgency is also not tenable.

In view of the above, the present revision petition is allowed. The impugned order dated 19.06.2020 is set aside and the Executing Court is directed to decide the Execution Proceedings expeditiously, preferably within a period of three months from today.

24.07.2020
ds

(HARNARESH SINGH GILL)
JUDGE

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