

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

101

**CWP No.29557 of 2017 (O &M)
Date of Decision:19.02.2020**

Ram Parkash

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. K.S. Kang, Advocate
for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the order dated 01.09.2017 (Annexure P-12) passed by the executing Court, Jalandhar whereby the objection petition preferred has been dismissed on account of that there was no stay in RSA No.763 of 2013 which has been filed by the petitioner(s) who are LR's of the judgment debtor-late Gurbachan Lal.

Resultantly, warrants of possession were issued for 07.10.2017 along with police help already granted. Similarly, the order dated 07.10.2017 (Annexure P-13) is subject matter of challenge whereby the decree holder was directed to deposit value of the standing crop with the civil Court and then process had to be issued as per previous orders. Thus, it is apparent that by way of writ proceedings the orders passed by the executing Court are subject matter of challenge.

Counsel has sought to argue that under the Punjab Co-operative

Societies Act, 1961, (for short 'the Act') jurisdiction of the Civil Court is barred regarding any dispute which is to be required to be adjudicated under Section 55 of the Act and which had to be referred to the Registrar. Apparently, during the pendency of the writ petition, RSA filed by the petitioner(s) has also been dismissed on 17.01.2020.

It is thus apparent that the petitioner(s) had a remedy to bring to the notice of Co-ordinate Bench regarding the lack of maintainability of civil proceedings before the Civil Court as now have been contended. Having been failed to do so and convince the Bench regarding the lack of jurisdiction of the Civil Court, the said issue cannot be raised in a Writ Court.

Resultantly, this Court is of the opinion that challenge to the execution proceedings as such would not lie by way of writ jurisdiction as the petitioner(s) have failed in their alternative and efficacious remedy.

Accordingly, there is no merit in the present writ petition and same is dismissed alongwith all pending miscellaneous application.

19.02.2020
pvd

(G.S. SANDHAWALIA)
JUDGE

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