

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

CR 09 of 2020

Date of Decision: 06 February, 2020

Balbir

...Petitioner

Versus

Ravish Trehan and others

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Alok Jain, Advocate
for the petitioner.

Mr. Adarsh Jain, Advocate
for the respondents.

FATEH DEEP SINGH, J. (Oral)

The brief background of this litigation is that on 15th November 2007, then plaintiff/decreed holder Ravish Trehan now respondent No. 1 filed a suit for possession in respect of land measuring 1 Kanal 5 Marlas detailed in the pleadings of the parties situated in village Ankhir. Through judgment and decree dated 15.05.2013, the Civil Court decreed the suit of the plaintiff against M/s Dagar Service Station and others. It is, subsequent, thereto, Smt. Omesh and Smt. Bimla through sale deeds

numbers 19507 and 19508, both got registered on 21st November 2008 and mutation Nos. 4903 and 4904 sanctioned in their favour also filed appeals against above judgment and decree. The appeal stood dismissed vide judgment and order dated 08th August, 2017. It is during the course of execution proceedings initiated by the decree holder Smt. Omesh and another filed objections, which too, stood dismissed by the Court on 20th August 2018 and simultaneously during those proceedings, the present petitioner/objector Balbir too filed a separate third party objections on 31.07.2018. The Court of learned Civil Judge, Junior Division, Faridabad vide order dated 13.09.2018 dismissed the objections filed by Balbir Singh, present petitioner and ordered the Naib Tehshildar to execute the warrants of possession. The same was challenged by the petitioner in an appeal and vide order dated 10.12.2019, the Court of learned Additional District Judge Faridabad through the impugned findings upheld the findings of the lower Court and dismissed the appeal. The same is the subject matter of

challenge before this Court in this revision.

Heard Mr. Aalok Jain, Advocate for the petitioner and Mr. Adarsh Jain, Advocate for the respondents and perused the records.

Reliance is placed on **M/s Nabha Solvex Pvt. Ltd. Vs. M/s Vimal Industries and another**, 2015(2) PLJ 402, **Kashmiri Lal Chawla and another Vs. Rohan Lal**, 2015(1) Law Herald 567, **Karnail Singh and others Vs. Bhajan Singh (Died) through L.Rs.**, 2005(1) HRR, **Puran Singh @ Sampuran Singh Vs. Financial Commissioner (Development, Punjab, Chandigarh and others**, 2009(2) R.C.R. (Civil) 712, **Tanzeem-e-Sufia Vs. Bibi Haliman** 2004(4) ALL MR 545, **Meenakshi Saxena and another Vs. ECGC Limited (formerly known as Export Credit Guarantee Corporation of India Limited) and another**, (2018) 7 Supreme Court Cases 479, **Avinash Chander VS. Mohan Lal and others** 1984(2) R.C.R. (Rent) 68, **Smt. Dhiro Vs. Sadhu Singh** 2007(1) RCR (Civil) 821 and **Gurdev Singh (deceased)**

through his LRs Vs. Additional Director, Panchayats, Punjab and another, 2012(3) PLR 326, **Brahmu Devi and others Vs. Joginder Singh and others**, 2014(2) L.A.R. 536, **Bhag Singh Vs. Arjan Singh and others**, 1984 R.R.R. 218, **Rahul and others Vs. State of Haryana and others**, 2012(3) R.C.R. (Civil) 243, **Tarlok Singh Vs. Financial Commissioner Co-operation, Punjab, Chandigarh and others**, 2004(3) R.C.R. (Civil) 548, **Charan Singh and another Vs. The Commissioner, Patiala and others**, 2013(1) PLR 509, **Roop Ram Vs. Mai Sukh**, 1998(2) R.C.R. (Civil) 273, **Avtar Singh and others Vs. Darshan Singh and others**, 2012(5) Law Herald 4659 and **Sham Sunder Vs. Ram Kumar** 1993(2) RRR 336.

It is by no means displaced that the judgment and decree in favour of the decree holder has attained finality and none of the counter claimants could be successful till the Apex Court. As is apparent from the records, the appeals of subsequent purchasers, objections by objectors too faced the

nemesis before the Court which did not yield any fruitful results for these parties. The claim of the revisionist counsel that in a proceedings before the Assistant Collector 2nd Grade, Balbir Singh had secured a favorable order dated 25.03.1987 does not cut much ice for the petitioner as it is reflected and controverted by the counsel for the contesting respondents on the ground that it was only correction of *khasra girdawari* by way of *fard badar* and it is well enunciated law that such entries if incorporated in the jamabandi cannot be rectified by a revenue Court and for which only a civil suit lies. More so, *fard badar* is for the purposes of corrections of any clerical errors and that under the land record manual only resortation to *Sehat Intqal* can be resorted to and which is more of a judicious adjudication by the revenue authorities after giving of notice to all the concerned parties, inviting objections and, thus, passing a comprehensive order. In the present case, as is sought to be submitted that the *fard badar* has been unilaterally effected by the revenue authorities at the back of the decree holder and

rather reflects that by doing so, the objectors have sought to undo the legal effects of the judgments passed by the various Civil Courts till the Hon'ble Supreme Court of India.

Mr. Adarsh Jain, learned counsel for the contesting respondents has argued that way back in the year 2002, there has been finalization of partition amongst the co-sharers and all the rightful owners have taken possession of their respective shares and after decades of this incorporation, the objectors have suddenly woken up from slumber which could not be displaced by the counsel for the petitioner.

The last submission that has come about from the side of the petitioner is over non-framing of issues by the learned Sub-Judge and has sought to attack the findings on these grounds. It is well within the powers of the Executing Court to adjudicate and decide the objections in the absence of issues and when the objections so sought to be raised are akin to what were decided in a earlier civil suit renders such a recourse as superfluous. The learned Executing Court has

rightly considered such aspects of the matter and holding that even previous objections to the execution were dismissed on 25.04.2018 has rightly done so, rather the very conduct of the objectors/judgment debtors by propping up, it is suggestive of the utter frustration of the JD's in preventing due execution of the execution.

This Court does not feel inclined to show any indulgence and the revision is hopelessly without any merits and stands dismissed

06 February, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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