

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1120-2021 (O&M)

Date of Decision: May 28, 2021

LAL SINGH (DECEASED) THROUGH LEGAL REPRESENTATIVES & ORS.

..... PETITIONER(s)

Versus

MUNCIPAL COUNCIL, BANUR & ORS.

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Nupur Choudhary, Advocate
for the petitioners.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

This petition has been filed seeking quashing of order dated 14.12.2016, passed by the learned Executing Court – Civil Judge (Jr. Division), Rajpura in Execution Application No.66 of 1981 as well as orders dated 15.02.2017, 07.03.2017 and 29.03.2017, passed by the learned Executing Court, whereby warrants of possession were issued besides seeking directions to respondent no.1 to restore, handover vacant possession of the suit property, which was admittedly taken by the respondent-Municipal Committee, Banur way back in execution proceedings in April/May, 2017.

It is not in dispute that Civil Suit No. 218 filed by the Municipal Committee, Banur in May 1967 was decreed in its favour on

02.04.1969 (Annexure P1) against the present petitioners (defendants) as well as others, namely Wazir Singh, Pritam Singh and Sant Singh arrayed as respondents no.2 to 4 in this petition. Appeal filed by the petitioners and other defendants was dismissed by the learned Additional District Judge, Patiala on 13.04.1970 (Annexure P2). Regular Second Appeal No. 857 of 1970, filed by the petitioners and other defendants was dismissed by this High Court on 17.07.1981 (Annexure P3). The proceedings admittedly attained finality against the petitioners and other defendants. Execution application filed by the plaintiff was stayed due to an order passed by this Court in Civil Revision No. 2111/1988. Said revision petition was, however, dismissed on 27.11.1989. Execution proceedings were revived in the year 2008.

Execution application was dismissed on 12.09.2014 (Annexure P10) by the learned Executing Court, Rajpura while observing that proceedings were pending for producing order dated 14.07.2014, passed by the High Court but as the same was not produced, execution petition was dismissed. This order was challenged by the Municipal Committee/Council, Banur in Civil Revision No.307/2015, which was decided by this High Court on 20.10.2015 (Annexure P-12), whereby it was directed that the execution application be restored to its original number and the same be decided in accordance with law. Learned Executing Court vide impugned order dated 14.12.2016 disposed of application for resoration of execution proceedings in view of order dated 20.10.2015 in CR-307-2015. SLP No.15467/2017 was filed by the legal heirs of Wazir Singh and the same was dismissed as withdrawn on 05.04.2021. In the interregnum, warrant of

possession was issued in the execution proceedings and various orders passed in the execution proceedings. Ultimately, execution petition was dismissed as withdrawn being fully satisfied on 09.05.2017 (Annexure P-19) after possession of the suit property was taken by M.C. Banur. Petitioners at this juncture, have now filed this revision petition raising a challenge to order dated 14.12.2016 and subsequent orders in execution proceedings on various grounds.

Learned counsel for the petitioner argues that first and foremost there was undue delay in revival of execution proceedings after dismissal of CR-2111 of 1988 filed by the petitioners and other defendants. Furthermore, Civil Revision No. 307/2015 challenging dismissal of execution petition vide order dated 12.09.2014 was not filed by M.C. Banur against Chanan Singh or his legal representatives. Moreover, no effort was made to implead legal heirs of the parties arrayed as defendants no.2 to 4 in the main suit and the revision petition was in fact dismissed qua the said respondents. It is thus prayed that this petition be allowed.

Heard.

It is a matter of record that neither the present petitioners or any of the other defendants challenged order dated 14.12.2016 or subsequent issuance of warrants of possession by the Executing Court in execution proceedings after passing of order dated 20.10.2015 in Civil Revision No. 307/2015. Possession of the suit property was admittedly taken in April/May 2017 from the present petitioners and the other defendants in execution of the decree against the petitioners and other defendants, which had admittedly attained finality a number of years ago.

Learned counsel for the petitioners is unable to set forth any explanation, leave alone a plausible one, in respect to the stoic silence maintained by the petitioners after issuance of warrants of possession as well as taking over possession of the suit property by respondent no.1 in execution proceedings. In a futile attempt, learned counsel for the petitioners seeks to explain the delay by stating that petitioners were waiting for the outcome of SLP-15467-2017. Admittedly, said SLP was filed only by the legal heirs of Wazir Singh and there was no interim order passed by the Hon'ble Supreme Court in the said proceedings. All the defendants in the civil suit are admittedly real brothers and it is not the petitioners' case that they were not aware of the execution proceedings. Inaction of the petitioners from 09.05.2017, when execution stood satisfied till the filing of this revision petition on 26.05.2021, by itself is sufficient to dismiss this petition. Present revision petition is clearly misconceived and bereft of any merit.

No other arguments has been addressed.

This petition is accordingly dismissed being devoid of any merit.

28.05.2021
Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No