

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

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**CWP-22486-2020(O&M)
Date of Order:28.01.2021**

AZAD SINGH

..Petitioner

Versus

STATE OF HARYANA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Kamlesh Khatri, Advocate,
for the petitioner.

Ms. Kirti Singh, DAG, Haryana

Mr. Abhinav Sood, Advocate, for
Mr. Vikram Singh, Advocate

ANIL KSHETARPAL, J(Oral)

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Admittedly, a decree for permanent injunction restraining respondent no.6 from interfering in the possession of the petitioner herein has been passed on 12.05.2016.

It is the case of the petitioner that respondent no.5 is not obeying the decree and the official respondents are not helping the petitioner in the implementation of the decree.

In the considered view of this court, if a decree for permanent injunction is alleged to have been violated, the petitioner has a remedy under Order XXI Rule 32 of the Code of Civil Procedure, 1908, which is extracted as under:-

32. Decree for specific performance for restitution of conjugal rights, or for an injunction.-

(1) Where the party against whom a decree for the specific performance of a contract, or for restitution of

conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has willfully failed to obey it the decree may be enforced the case of decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.

(2) Where the party against whom a decree for specific performance or for an injunction has been passed in a corporation the decree may be enforced by the attachment of the property of the corporation or with the leave of the court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force month ,if the judgment debtor has not obeyed the decree and the decree holder has applied to have attached property sold, such property may be sold; and out of the proceeds the court may award to the decree holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment debtor on his application.

(4) Where the judgment debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree holder or some other person appointed by the court, at the cost of the judgment debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the court may direct and may be recovered as if they were included in the decree.”

In view thereof, the petitioner is relegated to the remedy available before the Executing Court.

Disposed of accordingly.

January 28, 2021

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)
JUDGE

: Yes/No

: Yes/No