

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

**RSA-4674-2011(O&M)
Date of decision:06.04.2021**

Shiv Ram

.....Appellant

Versus

Prem Chand

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.J.S.Bedi, Advocate for the appellant

Mr. Santosh Sharma, Advocate for the respondent

ANIL KSHETARPAL, J. (ORAL)

Learned counsel representing the appellant submits that the appeal has been rendered infructuous as the appellant has surrendered the suit property to the respondent.

Learned counsel for the respondent submits that the respondent has filed a counter claim for passing a decree for mandatory injunction with respect to the entire land, which has been decreed by both the courts below. He further submits that in pursuance of the order dated 09.03.2015, the appellant had vacated the land measuring 6 bighas and 10 biswas and shifted the nursery to the adjoining land which is also owned by the respondent, however, the Executing Court is not proceeding with the execution petition.

In the considered view of this Court, the apprehension of the learned counsel for the respondent is misplaced. Once there is a decree for mandatory injunction, in a counter claim filed by the respondent

against the plaintiff then the same has to be given effect to.

Keeping in view the aforesaid facts, the appeal is dismissed as infructuous. This Court has no doubt that the Executing Court will take steps to execute the decree passed in a counter claim for mandatory injunction.

06.04.2021		(ANIL KSHETARPAL)
rekha		JUDGE
Whether speaking/reasoned	Yes /No	
Whether Reportable	Yes / No	