IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-4236 of 2015 (O&M)
Date of decision: 16.11.2022

Sukhdev Singh **..Petitioner**

Versus

Anoop Singh (deceased) through Lrs Surjit Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Mohan Gupta, Advocate
for the petitioner.

Mr. Viney Saini, Advocate, for
Mr. G.S.Nagra, Advocate
for respondent No.1 (b and c)

ANIL KSHETARPAL, J(Oral)

The decree holders in an ex-parte judgment and a decree dated 06.11.2004 are the petitioners. Their suit for possession of land measuring 8 kanals has been decreed against late Sh. Anoop Singh, who is now represented by his legal representatives. In fact, there were four co-sharers in the land measuring 8 kanals. Two of them i.e. the petitioners filed the suit, whereas the remaining 2 were impleaded as the profroma defendants. The suit was filed for the entire joint land measuring 8 kanals. When the petitioners filed the execution petition, the judgment debtors filed objections stating that the decree holders are only entitled to ½ share and not the entire land measuring 8 kanals. Strangely, the Executing Court has dismissed the execution petition. The decree holders as well as the proforma respondents are the co-sharers. The proforma respondents are not objecting to the delivery of possession to the decree holders. The respondent is an

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unauthorized occupant. The Executing Court while passing the entirely incorrect order has allowed the unauthorized occupant to continue to occupy the property at the cost of the petitioners. Once there is no dispute inter-se between the co-sharers/co-owners, the suit filed by the petitioners (decree holders) for the entire land was correctly decreed by the trial Court.

Once the decree qua entire land has been passed, the Executing Court was required to implement the same. The impugned order passed by the Executing Court has resulted in the travesty of justice. Hence, this court is left with no other choice but to set aside the order dated 23.02.2015. The Executing Court is requested to take steps for the delivery of possession of the suit land to the petitioners at the earliest.

The revision petition is allowed.

All the pending miscellaneous applications, if any, are also disposed of.

November 16, 2022 **(ANIL KSHETARPAL)**
nt **JUDGE**

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

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