

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 4350 of 2013 (O&M)

Date of Decision: 05.12.2022

Kirpal Singh (Now Deceased) through his Legal Representatives

... Petitioner(s)

Versus

Estate Officer, Urban Estate, Haryana Urban Development Authority,

Narnaul and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajwant Singh Chahal, Advocate
for the petitioner(s).

Mr. Pritam Singh Saini, Advocate
for the respondent No.1 to 3.

Mr. Aman Bahri, Advocate
for the respondent No.4 and 5.

Anil Kshetarpal, J.

1. Challenging the correctness of the order passed by the Executing Court on 24.04.2013, the decree holder has filed this revision petition.

2. The relevant facts, in brief, are required to be noticed. The petitioner claims that her predecessor-in-interest was owner of the land measuring 4 bighas and 3 biswas. Out of the aforesaid land, the land measuring 3 bighas and 17 biswas was acquired. The petitioner claims to be in possession of 6 biswas of the remaining land. The predecessor-in-interest of the petitioner filed a suit for grant of injunction which was dismissed by

while relying upon the report of the Local Commissioner. Only a decree for injunction was granted in favour of the petitioner. Complaining the wilful disobedience of the decree, the petitioner filed an application under Order XXI rule 32 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) which has been dismissed by the Executing Court. It has been found that the petitioner has concealed the material facts and has tried to create evidence of transfer of the land measuring 2 biswas in favour of one Sh.Gurjeet Singh.

3. When notice of motion was issued, affidavit of the Estate Officer of Haryana Shehari Vikas Pradhikaran Nigam was directed to be filed.

4. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

5. On the one hand, the learned counsel representing the petitioner contends that the petitioner is in possession of the land measuring 6 biswas and the respondents should be restrained from interfering in her possession. The learned counsel contends that the respondents have carved out plots, in the area in dispute, which have been allotted to the various allottees who are interfering in her possession.

6. On the other hand, the learned counsel representing the Haryana Shehari Vikas Pradhikaran Nigam has stated that the petitioner is trying to take the benefit of a wrong entry in the revenue record. He submits that in fact, the aforesaid land does not exist as it is not demarkable.

7. For maintaining an application under Order XXI Rule 32 CPC, the decree holder is required to allege and prove that the respondent had an

under Order XXI Rule 32 CPC includes attachment of the property as well as detention of the judgement debtor in the civil prison. Such power is required to be exercised with great care and caution.

8. Keeping in view the divergent stand of the respective parties, this Court is of the view that the petitioner, if so advised, may avail the remedy of seeking possession, if the said land exists.

9. With the observations made above, the present revision petition is disposed of. The payment of cost of ₹ 5,000/- ordered by the Executing Court, shall stand waived off.

10. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

December 05, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No