

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

107

**CR-5664-2018(O&M)
Date of decision:24.03.2022**

PHALIYA

...Petitioner

Versus

BHIM SINGH AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Rajender Chhokar, Advocate,
for the petitioner.**

**Mr. Aditya Jain, Advocate,
for the respondents.**

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner assails the correctness of the order passed by the Executing Court, on 14.08.2018. A judgment and decree in a suit for grant of permanent injunction restraining the defendants from interfering or dispossessing the plaintiff except in due course of law was passed on 13.02.2012. The plaintiff filed an execution petition alleging that he has been forcibly dispossessed on 18.07.2016. The defendant (Judgment Debtor) contested the execution petition while assailing that he continues to be in possession of the property and the stand of the plaintiff is factually incorrect.

The Executing Court, while observing that there is no requirement to frame an issue and permit the parties to lead evidence in this regard, ordered delivery of possession with the help of the police.

The execution petition was filed under Order 21 Rule 32 CPC.

The decree holders were required to establish that they have been

dispossessed in violation of the decree on 18.07.2016. The Executing Court ought to have permitted the parties to lead evidence.

Keeping in view the aforesaid facts, this court is of the view that the parties should be permitted to lead evidence after framing the issues.

In the considered view of the Court, the following issue arises for consideration:-

“Whether the decree holders were forcibly dispossessed from the suit land on 18.07.2016? Onus on the decree holder”

Consequently, the impugned order is set aside. The Executing Court is directed to permit the parties to lead evidence.

Disposed of accordingly.

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

March 24, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No