

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

109

CR-6225-2017

Date of decision: 16.11.2022

GURMEET KAUR

..Petitioner

Versus

JASWINDER KAUR AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harjot Singh Bedi, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

The Civil Court has passed a judgment and decree dated 01.06.2011 for possession with respect to the property measuring 197 sq. yards in favour of the petitioner. Smt. Jaswinder Kaur filed objections under Order XXI Rule 58 read with Section 47 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') which were dismissed on 06.02.2017 being not maintainable. Smt. Jaswinder Kaur, again, filed objections under Order XXI Rule 97 CPC. The petitioner filed an application under Section 11 of CPC for dismissing the subsequent objection petition on the ground of *res judicata* which has been dismissed by the Executing Court. Assailing its correctness, the present petition has been filed. The Executing Court has concluded that the objection petition filed under Order XXI Rule 97 CPC cannot be, outrightly, dismissed.

This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paperbook.

The learned counsel representing the petitioner, while reiterating that a previous objection petition filed by Smt. Jaswinder Kaur has already been dismissed, prays for setting aside the order dated

10.08.2017. It is doubtful as to whether the provisions of Section 11 CPC can be invoked in a pending execution petition, particularly when the first objection petition was dismissed as being not maintainable and not on merits after being finally heard. Moreover, no separate application under Section 11 CPC is envisaged in law. The Court, while deciding the case may come to a conclusion on the basis of arguments raised and evidence produced by the parties that the suit/objection petition is barred by the doctrine of *res judicata*.

Keeping in view the aforesaid facts, this Court does not find any ground to interfere at this stage. However, the decree was passed more than 11 years ago. In such circumstances, the Executing Court is requested to conclude the execution proceedings, positively, within a period of six months from the date of this order.

Disposed of.

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

November 16th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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