

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

CR No.1369 of 2022 (O&M)

DATE OF DECISION : 18.04.2022

Gajraj and Others

.....Petitioners

versus

Megh Raj and Others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.P. Bhandari, Advocate for the petitioners

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ALKA SARIN, J. (Oral):

This is a civil revision petition under Article 227 of the Constitution of India impugning the order dated 28.03.2022 passed by the Civil Judge (Junior Division), Faridabad in Execution No.57 of 2022.

Brief facts relevant to the present case are that the respondent-decree holder had filed a suit for permanent injunction in respect of a residential plot marked by letters 'ABCD' shown in red colour in the site plan measuring 90'x 35' situated within the revenue estate of Village Sarai Khawaja, Tehsil and District Faridabad and bounded as under :

East: Rasta Sare Aam

West: Mandir

North: House of Chutan

South: House of Ram Chander

The petitioner-judgment debtors (JDs) contested the suit on the ground that they were in settled possession of the property as Gair Marusi under the Municipal Corporation, Faridabad since the time of their grandfather. The petitioner-JDs filed a counter-claim for permanent injunction in respect of the said property. The Trial Court vide judgement dated 22.09.2014 dismissed the suit of the respondent-decree holder as well as the counter-claim filed by the petitioner-JDs. An appeal was preferred by the respondent-decree holder against the judgment and decree dated 22.09.2014 in which cross-objections were filed by the petitioner-JDs. The lower Appellate Court on 17.11.2017 accepted the appeal of the respondent-decree holder and dismissed the cross-objections filed by the petitioner-JDs. Thereafter, the petitioner-JDs preferred RSA-6206-2017 and RSA-3023-2018 against the judgment and decree dated 17.11.2017 which were also dismissed vide order dated 11.02.2021. The Special Leave Petition preferred against the order dated 11.02.2021 was also dismissed by the Supreme Court on 05.07.2021.

In the Execution Petition filed by the respondent-decree holder, objections were filed by the petitioner-JDs which came to be dismissed vide order dated 28.01.2022. Against the said order, Civil

Revision No.523 of 2022 was filed wherein the following order was passed :

“Inter-alia contends that under the garb of present execution proceedings, the decree-holder-respondent/Megh Raj, wants to dispossess the petitioners from the land comprised in Khewat No.310, Khatoni No.372, Rect. No.7, Killa No.17 (1-10), situated within revenue estate of Village Palla, Tehsil and District Faridabad, owned by Municipal Corporation, Faridabad and petitioners are continuing as gair mourusi.

Notice of motion.

Notice re: interim relief as well.

Mr. M.K. Sood, Advocate, who is present in Court, accepts notice on behalf of decree-holder/sole respondent. On instructions, he submits that respondent is pursuing execution proceedings for obtaining possession of the property which was subject matter of dispute in Civil Suit No.84/1976 strictly as per the judgment and decree dated 17.11.2017 passed by learned Additional District Judge, Faridabad and not beyond that.

On joint request, posted for arguments on 26.04.2022.

Let photocopy of records be requisitioned for the date fixed and petitioners shall deposit an amount of Rs.1000/- to defray the expenses before the executing Court.

Proceedings for execution of the decree dated 17.11.2017 shall continue. However, it is clarified that in case the Bailiff has any doubt regarding identification of the property in dispute in terms of the decree, he would be at liberty to take the assistance of some revenue official and Tehsildar, Faridabad shall fully cooperate in the matter to that effect.”

After passing of the said order, second objection petition under Section 47 of the Code of Civil Procedure, 1908 was filed by the petitioner-JDs on the ground that the property in question was required to be demarcated for effective execution of the decree. This Court, vide order dated 18.02.2022, had already clarified that in case the Bailiff has any doubt regarding identification of the property in dispute in terms of the decree he would be at liberty to take the assistance of some revenue official and Tehsildar, Faridabad shall fully cooperate in the matter to that effect. The same has been reiterated vide the impugned order. The petitioner-JDs appear to be obstructing the execution of the decree on one ground or the other and the second objection petition filed by the petitioner-JDs appears to be nothing but a tactic to delay the entire proceedings.

In view of the order passed by this Court in CR-523-2022, no further orders are required to be passed in the present revision petition. There was no occasion for the petitioner-JDs to file a second objection petition. The Executing Court has rightly dismissed the second objection petition.

The present revision petition, which is wholly devoid of any merits, is accordingly dismissed.

Dismissed.

(ALKA SARIN)
JUDGE

18.04.2022
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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