

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

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**CR-3217-2022 (O&M)
Date of decision: 16.08.2022**

Mahabir and othersPetitioners
Versus

Ram Kunwar and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ram Darshan Yadav, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

CM-9904-CII-2022

Allowed as prayed for.

CR-3217-2022

The instant revision petition has been preferred by the petitioners/judgment debtors to impugn the order dated 08.07.2022 passed by learned Additional Civil Judge (Sr. Divn.), Kosli.

Learned counsel inter alia contends that the second execution petition qua the same decree was not maintainable as the respondents/decreed holders had earlier also filed an execution petition under Order 21 Rule 32 of the Code of Civil Procedure, 1908 (for short, 'the Code') titled as 'Om Parkash Vs. Ghisa Ram and others' before the learned ACJ (Sr. Divn.), Kosli which was dismissed in default on 07.01.2006 coupled with the fact that it had also been filed much beyond the period of limitation. Still further, learned counsel contends that the petitioners/judgment debtors were in possession of the suit land and no relief had been granted qua the demolition of the wall from the suit property. Hence, the impugned order being erroneous, deserves to be set aside.

I have heard learned counsel and perused the relevant

material on record including the impugned order.

This Court does not find any merit in the submissions made by learned counsel for the reasons to follow. The second execution petition was filed by the respondents/decreed holders for compliance of judgment and decree dated 23.03.1989 wherein it had been alleged that the petitioners/judgment debtors had been intentionally violating the order dated 23.03.1989. The respondents/decreed holders in their reply to the objections filed by the petitioners/judgment debtors has submitted that they did not pursue the earlier execution petition due to an assurance given by the petitioners/judgment debtors that they would not interfere in their peaceful possession. However, when there was a breach of the said assurance, they again approached for the execution of the decree for permanent injunction. Therefore, in the circumstances this Court is of the opinion that there is no embargo on the respondents/decreed holders to get the decree executed by filing a second execution petition, when the previous one was dismissed in default. Moreover, the objections taken in the second petition had already been taken by the petitioners/judgment debtors in the first execution petition titled as 'Sheo Narayan Vs. Ghisa Ram' wherein also they had specifically objected to the fact that they had been in possession of the land in dispute prior to the filing of the suit and wall AEFG had already been in existence. Those objections were dismissed by the Court on 05.09.2000 and the respondents/decreed holders were entitled to get the decree in question executed as per the provisions under Order 21 Rule 32 of the Code.

Coming to the next contention of the learned counsel on the question of limitation, it needs to be observed that Article 136 of the schedule to the Limitation Act, 1963 does not provide for any period of limitation for the execution of a decree for permanent injunction.

Accordingly, the instant petition being devoid of any merit is dismissed in *limine*.

16.08.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

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