

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

CR-5045-2022

Date of decision:-15.11.2022

Rattan Singh and another

...Petitioners

Versus

Moola alias Mood Chand another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Deepak Vashishth, Advocate
for the petitioners.

H.S. MADAAN, J.(ORAL)

1. Moji and three other plaintiffs had filed a Civil Suit No.633 dated 24.4.1980/23.10.1982 against defendants Mange Ram etc. seeking possession by way of partition of Mustarka Malkan Be Hasab, rasab rakba, khewat measuring 101 kanals 6 marlas situated at village Kamaspur, Tehsil & District Sonipat. That suit was decreed on 23.5.1998. Thereafter, the plaintiffs filed an execution application wherein Rattan Singh (since deceased) and Tara Chand appeared and filed objections on merits; in addition to contending that since the execution application had been filed after a lapse of 12 years of passing of final decree dated 23.5.1998, the same is liable to be dismissed.

2. The decree-holders opposed the objections. The Executing

Court afforded opportunities to the parties to lead evidence in support of their respective contentions. Objectors moved an application for calling of production of execution register of May, 2010, record of partition suit titled 'Moji etc. Versus Mange etc.' decided on 23.5.1998. In the application so moved, the objectors contended that the institution register would prove that execution was filed on 29.5.2010 and not on 17.5.2010 as alleged by the decree-holders and record of partition suit is also relevant so is cause list dated 17.5.2010. Therefore, these documents be also summoned.

3. The application was opposed on behalf of the decree-holders. Such application was dismissed by the Executing Court vide the impugned order dated 15.9.2022. For ready reference, the operative part of the order is being reproduced as under:

“The present application has been moved by objector whereby the applicant want to call the execution register of May, 2010, cause list dated 17.05.2010 as well as record of the partition suit in which preliminary decree was passed to show that the execution petition has not been filed within period of limitation. It is pertinent to mention here that Court has already called for summoning of the original file in which preliminary decree was passed. Further, qua calling of execution register of May, 2010 and cause list, the same is not necessary in the opinion of the Court as the perusal of the application filed for execution, reveals that it bears stamp of the Court calling report of Ahlmad dated 17.05.2010. The date of registration of the execution is mentioned as 29.05.210 and as per

the procedure adopted in the Court it is only after calling the report of the office/concern Ahlmad the execution petition is ordered to be checked and registered. Therefore no purpose would be served by calling the execution registration of year 2010 as the date mentioned in the execution register is the date on which the execution is ordered to be checked and registered which is already on record in the zimni order i.e. 29.05.2010 which is evident from the case file. Therefore, the request of applicant/objector for calling of the execution register of the year 2010 stands declined. Also a careful perusal of application for execution reveals that the stamp of court calling report of Ahlmad bears date 17.05.2010. It was urged by learned counsel for applicant that there is cutting in the said date, therefore, the concern record be summoned. It is correct that there is some over-writing in date on stamp of court, however, a careful perusal of same would reveal that it is 17.05.2010 and not 29.05.2010 and this fact is further corroborated from the date as mentioned on the court fee ticket affixed on application which is also 17.05.2010. Therefore, the record as requested by counsel for applicant is not at all necessary to be called and no useful purpose would be served thereby. Accordingly, application in hand stands dismissed.

Now to come up on 07.10.2022 for rebuttal evidence, if any, otherwise on arguments.”

4. That order left the objectors aggrieved and they have

challenged the same by way of filing the instant revision petition before this Court.

5. I have heard learned counsel for the revisionists besides going through the record.

6. I find that the impugned order is quite detailed and well reasoned. It does not suffer from any illegality or infirmity. The Executing Court has observed that the original file in which the preliminary decree was passed has already been summoned and calling of execution register of May, 2010 and cause list dated 17.5.2010 is not necessary and valid reasons for saying so has been mentioned. The application has been declined observing that the record stated to be produced by the applicants is not necessary and no useful purpose would be served. It is for the Executing Court to determine the relevance and admissibility of the evidence produced or to be produced by the parties and not to summon the witnesses/record just as per wishes of the parties. The Executing Court has exercised its discretion in a proper and appropriate manner and without there being any element of arbitrariness or not due to non-application of judicious mind. The application seems to have been filed just to prolong the proceedings, which have already been overstretched inasmuch as the plaintiffs in the suit filed by them way back in the year 1980 are yet to reap the fruits of the decree passed in their favour despite passage of more than 42 years, which clearly puts a big question mark over the efficiency of our judicial system.

7. There is absolutely no merit in the revision petition, which stands dismissed.

8. The Executing Court is directed to dispose of the objections expeditiously without further delay so that the plaintiffs can watch the execution of the decree passed in their favour before the wait for it reaches half a century.

15.11.2022

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**