

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

CR-4985-2022(O&M)

Date of decision:-10.11.2022

Sonu @ Narinder

...Petitioner

Versus

Rajesh Kumar and others

...Respondents

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

Present: Mr.Parminder Singh, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

1. This revision petition is directed against the order dated 20.9.2022 passed by Civil Judge (Jr.Divn.), Assandh vide which application filed by applicant Sonu @ Narinder (herein – revisionist) for staying of the execution proceedings was rejected.

2. Briefly stated, facts of the case are that plaintiff Rajesh Kumar had filed a suit for grant of mandatory injunction against defendants Sonu (present revisionist), Balbir Singh, Ravinder and Randhir Singh; that suit was decreed on 19.5.2015 and defendants were directed to leave possession of portion of disputed street and to remove the construction raised by them in the street within two months from the date of judgment and observing that in default of the same, the plaintiff would be entitled to get the judgment executed through agency of the Court; furthermore, the defendants were restrained from raising any further construction in the joint street.

3. The revisionist Sonu alias Narinder had been proceeded against ex-parte in the suit. He had filed an application for setting aside of ex-parte judgment and decree. However, the same was dismissed by the trial Court on 20.9.2022. The revisionist had filed objections contending that impugned decree was not executable since the application has been filed beyond the period of limitation of three years prescribed by Article 135 of the Limitation Act. However, the Court had rejected that objection, leaving the revisionist aggrieved by the impugned order dated 20.9.2022 and he has filed the present revision petition before this Court.

4. I have heard learned counsel for the revisionist besides going through the record and I do not find any illegality or infirmity in the impugned order.

5. The judgment and decree had been passed on 19.5.2015. The revisionist impleaded as a defendant in that suit had put in appearance through counsel, however since his counsel has pleaded no instructions and revisionist himself was not represented either in person or through some other counsel, he was proceeded against ex-parte. He had filed an application for setting aside of ex-parte judgment and decree, which had been dismissed on 20.9.2022. As mentioned in the impugned order itself, an appeal against the judgment and decree dated 19.5.2015 is pending before the Court of Additional District Judge, Karnal. The appeal is nothing but continuation of the suit. The revisionist cannot take advantage of the fact that he had absented from the proceedings in the trial Court during the pendency of the suit and was proceeded against ex-parte and when the suit was decreed, he moved an application for setting aside of

ex-parte judgment and decree, which was dismissed. The revisionist want to take advantage of his own wrong, which cannot be allowed. The plea put up on his behalf that the decree could be executed within three years of its passing only, in terms of Article 135 of the Limitation Act is misconceived and result of misinterpretation of law. The execution of the decree in question is not barred considering the facts and circumstances of the case and the application filed by the revisionist before the executing Court contending that decree was not executable was rightly rejected.

6. I find that law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Courts below or the same are perverse, arbitrary and not otherwise.

7. In the present case, I do not find any such illegality or infirmity with the impugned order passed by the Court below much less apparent on the face of those. The order is certainly not in violation of settled principles of civil jurisprudence. I do not see any reason to upset the impugned order.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

10.11.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No