

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

124+272

CR-1278-2023(O&M)  
Date of Decision: 28.11.2023

Kishori Lal

....Petitioner

Versus

Santosh Kumari Through her GPA

....Respondent

**CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: None for the petitioner.

Mr. Dheeraj Mahajan, Advocate  
for the respondent.

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**SANJAY VASHISTH, J.(Oral)**

**CM-16807-CII of 2023**

i) Present application has been filed under Section 151  
C.P.C. for preponement of date of hearing of the main case i.e. **CR-  
1278-2023.**

ii) As the main case is listed today itself for hearing, the  
present application is disposed of as having been rendered  
infructuous.

**CR-1278-2023(O&M)**

1. Learned counsel for the respondent submits that the  
impugned order dated 19.11.2022 (Annexure P-5) was passed by the  
learned Executing Court by making an observation that as per the  
report of the Halqa Kanungo, one Balwinder

Singh s/o Swaran Singh is found in possession of land bearing Khasra No.15//19/1 (3-8), which is suit property of decree in hand.

2. Mr. Dheeraj Mahajan, learned counsel for the respondent submits that during submissions it came to light that said Balwinder Singh is infact real nephew of Judgment Debtor-Kishori Lal (petitioner herein). Therefore, learned Executing Court also concluded that there is connivance between the Judgment Debtor (JD) and said Balwinder Singh and accordingly, ordered for restoring back the possession to the decree holder (DH)i.e. respondent herein.

3. He also submits that on the one hand, Kishori Lal is taking stand that he has no connection with the land in question and on the other hand, he is challenging the order passed by learned Executing Court as petitioner before this Court. It, itself is enough to conclude that there is direct interest of the petitioner, having illegal possession over the land through outsiders such as Balwinder Singh.

4. Learned counsel for the respondent also points out that on 11.04.2023, notice in the present revision petition was issued by recording contention of the petitioner (Judgment Debtor), which is reproduced herebelow:

*'Present: Mr. Karan Choudhary, Advocate  
for the petitioner.*

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*Learned counsel for the petitioner/defendant submits that the suit had been decreed in favour of the respondent/plaintiff on 26.11.2018 with regard to the land measuring 03 kanals 08 marlas comprising in Khewat No. Khatoni 96 Rect. 15 Killa 19/1(3-8) as entered in the jamabandi for the year 2012-13 situated in the revenue estate of Village Sammu Chak H.B. No.296 Tehsil and District Gurdaspur. The petitioner has*

*no concern with the suit land and has not been in possession thereof. The execution proceedings has erroneously been lodged against the petitioner and the consequences of the impugned order passed by the Executing Court directing the petitioner to deliver the possession would be harsh, including the possibility of him being sent to civil imprisonment even though he is not in possession of the suit. property. He also submits that he has no objection to the execution of the decree and is not claiming possession of the suit land in any manner.*

*Issue notice to the respondents, returnable on 11.07.2023.'*

5. Mr. Mahajan, learned counsel for the respondent further informs that the petitioner is neither appearing before the Executing Court; nor before this Court, and, he has already been proceeded against ex parte vide order dated 06.09.2023 before the Executing Court. He further submits that during the proceedings before the Executing Court, never any objection has been filed by said Balwinder Singh. It is also clear from the absence of the petitioner recorded in the previous order dated 17.10.2023 and even today, no one has appeared on behalf of the appellants.

6. There was no representation on behalf of the petitioner on the last date of hearing. Today again, none has appeared on his behalf. It seems that petitioner is not interested in pursuing the present petition and same is dismissed for non-prosecution.

November 28, 2023  
*rashmi*

Whether speaking/reasoned  
Whether reportable?

**[SANJAY VASHISTH]**  
**JUDGE**

yes/no  
yes/no