

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

**CR-502-2019 (O&M)
Date of decision: 23.01.2023**

STATE OF HARYANA AND ANR

...Petitioners

VS

LAKHWINDER KAUR AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.S.Mann, Additional A.G., Haryana.

Mr. Saurabh Bajaj, Advocate,
For the respondents.

ARUN MONGA, J. (ORAL)

Revision petition is directed against order dated 19.11.2018 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Pehowa, whereby warrant of possession of the land underneath the road meant for public purpose was issued in Execution Petition No.54 of 2014 arising out of judgment and decree dated 16.12.2013 passed in Civil Suit for mandatory injunction with consequential relief of permanent injunction and order dated 27.11.2018 (Annexure P-2), vide which the execution petition was disposed of being fully satisfied.

2. Learned counsel for petitioner/JDs submits that foremost relief sought by respondent/plaintiffs in the suit was regarding compensation for the land, which is under the road and the said road is in existence since long. Compensation for the said land stands already paid by petitioners to respondents and they duly accepted the compensation during execution proceedings on 06.07.2015.

3. I have heard learned counsel for the parties and gone through the case file.

4. Order dated 19.11.2018 assailed herein is premised, *inter alia*, on the following reasoning:

“A careful perusal of the case file reveals that the decree holders filed present execution petition in pursuance of judgment and decree dated 16.12.2013 passed by Court of Sh. Vivek Yadav, learned Additional Civil Judge (Sr. Divn.), Pehowa in Civil Suit No. 433 of 2013, titled as 'Lakhwinder Kaur and another versus State of Haryana and another'. Aforesaid civil suit was decreed by the Court to the effect that the plaintiffs are entitled to receive compensation of their encroached land as per rules and if the defendants fail to make the compensation within a period of six months then they will be entitled to restoration of their said land. For the sake of clarification, paragraph No. 15 of judgment dated 16.12.2013 has been reproduced here as under:-

In the result, the suit of the plaintiffs is hereby decreed to the effect and extent that the plaintiffs are entitled to receive the compensation of their land underneath to the road as per rules relating thereto and in case, the defendants failed to make the payment of the compensation as per rules relating thereto within a period of six months, the plaintiffs will be entitled for the restoration of their land underneath to the road. There is no order as to costs. Decree-sheet be drawn accordingly. File be consigned to record-room after due compliance.

As per judgment and decree dated 16.12.2013, the judgment debtors were legally bound to pay compensation to the decree holders on or before 16.06.2013. But they paid the disputed compensation to the decree holders on 06.07.2015. As the judgment debtors failed to comply with first part of aforesaid judgment so the decree holders are entitled to recover encroached portion of their land. It is settled proposition of law that Executing Court cannot go beyond judgment and decree. In these circumstances, warrant of possession be issued for 27.11.2018 on filing requisite documents, P.F. etc. within two days.”

5. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court.

6. Trite it is to say that the learned Executing Court cannot go behind the reasons given in the judgment and findings rendered therein so as to re-open the decree, which has attained finality.

7. Having seen the averments contained in the objection petition, which has been dismissed vide impugned order herein and rightly so, it appears that instead of choosing to challenge the trial court judgment and decree by way of filing first appeal, the petitioner-State allowed the same to attain finality by sheer efflux of time and it is only when execution proceedings were initiated, perhaps it realized the fallacy and took objections on merits of the judgment rendered by learned trial Court, which as already observed, has attained finality.

8. Having acquiesced to the judgment rendered by learned trial Court by opting not to file first appeal, it is too late now for the petitioner-State to object to the implementation of the same making out a case if at all, on merits under the garb of filing the objections to the decree being executed, same being outside the scope of Section 47 read with Order XXI CPC, is not permissible at this stage.

9. There is thus no room for interference in the aforesaid valid reasons recorded by learned trial Court, with which I am in agreement.

10. No grounds are made out to interfere.

11. Dismissed.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

23.01.2023
vandana

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