

Neutral citation No. **2023:PHHC:058581**
IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 5025 of 2018 (O&M)
Date of decision : 25.4.2023.

...

Sunder Singh

.....Petitioner

vs.

Dharam Lal and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Johan Kumar, Advocate
for the petitioner.

...

H. S. Madaan, J. (Oral)

Learned counsel for the petitioner has contended that petitioner Sunder Singh alongwith his his father Ram Singh both plaintiffs, had brought a suit for grant of permanent injunction against Dharam Lal and Gram Panchayat of Village Bhulwana, Tehsil Hodal, District Faridabad, now District Palwal, defendants, who are respondents in this petition, for restraining the defendants from interfering in their possession in the suit property belonging to the plaintiffs and from demolishing the same. Since the defendants despite being given notice had not opted to offer a contest, after recording ex parte evidence, the trial Court of Additional Civil Judge

(Senior Division), Palwal, vide judgment dated 30.9.2008, had decreed the suit restraining the defendants from taking illegal and forcible possession of the suit property and from interfering into the peaceful possession of the plaintiffs qua the suit property and also from demolishing the *pucci Johnpri* and *Chapper* of the plaintiffs standing over the suit land illegally and forcibly. Thereafter the plaintiffs had filed an execution petition, which was erroneously dismissed by the Court of Additional Civil Judge (Senior Division), Hodal. The appeal filed by the plaintiffs against that order was also dismissed by learned Additional District Judge, Palwal vide order dated 13.12.2017, leaving the plaintiffs -petitioners aggrieved and petitioner Sunder Singh has approached this Court by way of filing the present revision petition, notice of which was given to the respondents, but they did not appear despite service and have been proceeded against ex parte.

I have heard learned counsel for the petitioner, besides going through the record.

Learned counsel for the revision petitioner has contended that the factor which had weighed heavily on the mind of the Additional Civil Judge (Senior Division), Hodal, in dismissing the execution was that the decree passed in favour of the plaintiffs was an ex parte decree. The report of the Local Commissioner appointed, who had reported that the construction was being carried out by defendants is in property of the plaintiffs and further in a the criminal complaint filed by the plaintiffs on those very allegations, the then Sarpanch of the Gram Panchayat Village Bhulwana namely Bhedi

son of Shri Kallan Ram was convicted, though appeal filed against conviction is pending, were not properly considered by the Courts below.

After hearing learned counsel for the petitioner, I find that the impugned orders do not sustain the judicial scrutiny. Therefore, the revision petition is accepted and the impugned orders dated 13.12.2017 passed by Additional District Judge, Palwal and order dated 13.5.2015 passed by Additional Civil Judge, Hodal, are set aside and the matter is sent back to the Additional Civil Judge (Senior Division), Hodal, to deal with the execution petition afresh in accordance with law.

The petitioner is directed to appear there on 10.5.2023.

25.4.2023
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(H.S. Madaan)
Judge

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