

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

129

2023:PHHC:116071

CR-3697-2019

Date of decision: 04.09.2023

SUKHDEV SINGH

..Petitioner

Versus

RANJIT SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Goyal, Advocate
for the petitioner.

Mr. Rishav Jain, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. Through this revision petition filed under Article 227 of the Constitution of India, the petitioner assailed the correctness of order passed by the Executing Court on 14.02.2019, whereby, his application under Order XXI Rule 32 of the Code of Civil Procedure, 1908, has been dismissed. A decree for permanent injunction was passed against the respondents on 08.12.2012. After a period of nearly 3 years, the petitioner filed an application under Order XXI Rule 32 of the Code of Civil Procedure, 1908, for enforcement of the judgment and decree dated 08.12.2012. In substance, the petitioner alleges that the respondents in wilful violation of decree have taken over the possession of some part of the property.

2. The trial Court after appreciating the pleadings framed the following issues:-

- “1. Whether JDs have violated the decree dated 08.12.2012 willfully? OPDH
2. Whether the present execution is not maintainable? OPJD
3. Whether decree holder has concealed the material facts? OPJD
4. Relief.”

3. The parties were permitted to lead evidence. On appreciation of evidence, the trial Court came to a conclusion that the petitioner has failed to prove the wilful violation of the judgment and decree passed by the Court.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. The learned counsel representing the petitioner contends that at the time when the judgment and decree was passed i.e. on 08.12.2012, the respondents were restrained from interfering in the peaceful possession of the plaintiff and on 13.08.2015, the respondents destroyed the petitioner's crop.

6. On the other hand, the learned counsel representing the respondents submits that they have not infringed the decree. He also submits that the counter claim filed by the respondents with respect to 32 kanal and 5 marlas was also decreed.

7. This Court has considered the submissions of the learned counsel representing the parties.

8. In order to prove his case, the petitioner appeared in evidence as AW-1, whereas, he examined Sh. Joda Singh as AW-2. At the time when the petitioner was cross-examined, he stated that Sh. Baldev Singh and Sh. Gurcharan Singh did not file any suit against him. He further stated that no case has been filed by him for the loss of crop. AW-2 Sh. Joda Singh on being questioned failed to disclose the registration plate of the tractor, on which the respondents came and destroyed the crop. He further failed to disclose the land that is in his name. The learned counsel representing the petitioner has failed to draw the attention of the Court to any error by the

Executing Court in appreciating evidence. The scope of interference in a revision petition is limited. The petitioner in this case was required to prove that the respondents have willfully violated the decree passed by the Court, however, he failed.

9. In view of the aforesaid fact and discussion, no ground to interfere is made out.

10. Dismissed accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

September 04th, 2023
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(ANIL KSHETARPAL)
JUDGE

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