

**CR-3221-2023**  
**DECIDED ON: 07.08.2023**

KARNAIL SINGH AND ORS

**.....PETITIONERS**

## VERSUS

# RURA MAL

.....RESPONDENT

**CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.**

Present: Mr. Joginder Siwach, Advocate  
for the petitioners.

**VIKRAM AGGARWAL, J (ORAL)**

1. The present revision petition, filed under Article 227 of the Constitution of India, assails the order dated 12.04.2023 (Annexure P-5) passed by the Civil Judge (Senior Division), Pathankot vide which the objection petition filed by the present petitioners under Section 47 CPC was dismissed.

2. The facts, as emanating from the paper book, are that the respondent-plaintiff filed a suit against the present petitioners-defendants which was decreed by the Civil Judge (Senior Judge), Pathankot vide judgment and decree dated 07.10.1998 (Annexure P-1). The appeal preferred against the same was allowed but thereafter, in the Regular Second Appeal, the decision of the First Appellate Court was set aside and the decision of the trial Court was affirmed. The respondent-plaintiff filed an execution petition (Annexure P-2) in which an objection petition under Section 47 CPC (Annexure P-3) was moved by the present petitioners-defendants. The basic objection was that the decree pertained to Khasra No.49R/9/2/2 of which the

respondent-plaintiff claimed to be owner in possession. However, the petitioners-defendants were not in possession of any part of the land bearing Khasra No. 49R/9/2/2 and were owners in possession of land bearing Khasra No. 49R/9/2/1. Reliance was placed upon the judgment and decree dated 27.05.1997 passed by the Civil Judge (Senior Division), Pathankot (Annexure P-6). The executing Court did not find merit in the objection petition and dismissed the same, leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioners and have perused the paper book.

4. The judgment and decree which is being sought to be executed is on record as Annexure P-1 and was passed by the Civil Judge (Junior Division), Pathankot on 07.10.1998. Admittedly, this judgment was affirmed by this Court in a Regular Second Appeal having been filed by the respondent-plaintiff. A perusal of the judgment and decree dated 07.10.1998 shows that the land in dispute in the said case was Khasra No.49R/9/2/2. The judgment also notices the contention of the petitioners-defendants that they were owners in possession of land comprised Khasra No.49R/9/2/1 apart from other land. The trial Court duly dealt with the contentions of both sides and held that the land in dispute was comprised in Khasra No.49R/9/2/2. Under the circumstances, it was not open for the executing Court to go beyond the decree and to accede to the request of the petitioners-defendants for demarcation of the property. The land in question in the proceedings before the executing Court was land measuring 12 Marlas comprised in Khasra No.49R/9/2/2 and the decision was based upon the report of the Local Commissioner dated 14.06.1994 after demarcation having been conducted as

held by the trial Court in its judgment and decree dated 07.10.1998 which was upheld by this Court. Reliance upon the judgment dated 27.05.1997 (Annexure P-6) by the petitioners-defendants before the executing Court would also not help the petitioners-defendants as the executing Court, as already observed, would be bound by the decree and would not be in a position to entertain any other plea. It was rightly held by the executing Court that the plea raised before the executing Court should have been taken before the trial Court. It, therefore, rightly dismissed the objection petition. I do not find any illegality in the said order warranting interference in revisional jurisdiction.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)  
JUDGE

07.08.2023

Prince Chawla

Whether speaking/reasoned      Yes/No

Whether reportable                Yes/No