

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

CR-4193-2019(O&M)

Reserved on:-20.3.2023

Date of Pronouncement:-22.3.2023

Jai Parkash

...Petitioner

Versus

Kalu Ram (since deceased) through LRs

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Nakul Sharma, Advocate
for the petitioner.

Mr.S.K. Arora, Advocate
for the respondents.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiff Kalu Ram had brought a suit for possession and mesne profits against Jai Parkash, which was decreed partly by Addl.Civil Judge (Sr.Divn.), Guruhar Sahai vide judgment and decree dated 11.11.2016 and plaintiff was declared to be entitled for possession of shops bearing No.19 and 20 situated at Balram Market, Guruhar Sahai, Tehsil Guruhar Sahai, District Ferozepur, whereas the relief regarding mesne profits was declined. The defendant had challenged that judgment and decree before District Judge, Ferozepur, who vide judgment and decree dated 5.2.2018 dismissed the appeal.
2. After the judgment and decree passed by the trial Court had attained finality, the plaintiff-decree holder filed an execution application for delivery of possession of shops in question to him. The warrants of

possession so delivered were returned unexecuted by the Bailiff with the report that the description of the property at the spot did not tally with the description given in the warrants of possession. Thereafter, the Executing Court issued fresh warrants. The JD had filed objections contending that the warrants of possession issued were not with regard to the property regarding which the suit had been decreed and the JD was using that property for residential purposes, therefore, possession could not be taken. However, those objections were rejected by the Executing Court vide the impugned order dated 14.5.2019, leaving the objector/JD aggrieved and he has filed the present revision petition, notice of which was given to the respondent/decreed-holder, who put in appearance through counsel.

3. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

4. It appears that the JD, who has lost the litigation wants to prevent the execution and to delay the execution of decree passed against him by the Courts of competent jurisdiction on one excuse or the other. It is apparent on the record that the warrants of possession have been issued with regard to the shops in respect of which, the suit filed by the decree-holder had been decreed against the defendant/JD. It seems that respondent/JD has been able to win over the Bailiff, even procuring a report that the description of the property at the spot did not match with the description of the property given in the warrants. However, the Executing Court has given the necessary clarification that the decree obtained by the plaintiff-decreed-holder after a long contest is to be

executed in his favour so that he can reap the award of the decree so passed in his favour; the JD - tenant has come up with a new plea that he is using the shops for residential purposes only, when no such plea has been taken up before the trial Court and First Appellate Court and no finding in that regard is there by such Courts.

5. The attempt by JD, who is revision petitioner before this Court is not to be allowed to succeed. He has got an interim order in his favour, which is in operation for the last more than three years. I find the revision petition to be lacking any merit and deserves to be dismissed.

6. Accordingly, the revision petition stands dismissed.

The interim order dated 10.7.2019 passed by this Court staying the order dated 14.5.2019 passed by the Executing Court stands withdrawn.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

22.3.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No