

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

**Civil Revision No. 2360 of 2020 (O&M)
Date of Decision: 23.11.2023**

Rajender Parshad

...Petitioner

Versus

Bajrang Lal

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Ajay Jain, Advocate
for the petitioner.**

**Mr. Raman Chawla, Advocate
For the respondent.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/JD for setting aside the order dated 08.09.2016, 29.01.2020, 11.02.2020, 24.02.2020 and 04.03.2020 (Annexures P-9 to P-13) passed by the Court of Additional Civil Judge (Sr.Divn.), Fatehabad vide which the petitioner was ordered to be proceeded against *ex-parte* and warrants of possession of the property in dispute were ordered to be issued and got executed by breaking open the lock with the aid of the police along with consequential proceedings thereon.

2. The brief facts of the case are that respondent filed suit for permanent injunction to restrain the petitioner from interfering into peaceful possession of the respondent over the suit property measuring 88 *kanals* 06 *marlas* and for mandatory injunction directing the petitioner to vacate the *dhani* of respondent constructed in *khasra* No. 110//4 min(0-4) which was being occupied by the petitioner as a licensee. The suit was contested by the petitioner and was decreed in favour of the respondent vide judgment dated

16.05.2013 to the effect that petitioner was restrained from interfering into peaceful possession of the respondent over the suit land with further direction to the petitioner to hand over vacant possession of *dhani* situated in *khasra* No. 110//4 min(0-4) within a period of two months. The said judgment has attained finality. The respondent filed execution application wherein he alleged that after passing of the decree the petitioner took illegal possession of aforesaid 88 *kanals* 06 *marlas* of land and he also failed to hand over possession of *dhani* having area 0-4. In the said execution proceedings the petitioner was proceeded against *ex-parte* and consequently orders Annexures P-9 to P-13 were passed. Being aggrieved by the said orders, the petitioner has filed the present petition.

3. I have heard the counsel for the parties.

4. The counsel for the petitioner while assailing the impugned orders, *inter alia*, contends that no notice of execution petition was ever issued to the petitioner and the entire proceedings were taken up by the Court concerned at the back of the petitioner and thus are totally illegal and deserves to be set aside. It is further contended that even otherwise false allegations were made in the execution application that after the passing of the decree, the petitioner forcibly took possession of land measuring 88 *kanals* 06 *marlas*. In this regard, the counsel for the petitioner referred to copy of plaint of subsequent civil suit (Annexure P-14) wherein it has been pleaded that the possession of the suit property has been delivered to the respondent. While concluding his arguments, the counsel for the petitioner submits that the present petition be allowed and the petitioner be given liberty to approach the Executing Court to raise his objections against the execution application and the same should be decided by the Executing

Court in accordance with law.

5. The counsel for the respondent while supporting the impugned orders, *inter alia*, submits that the absence of the petitioner before the Executing Court was intentional and consequently he was rightly proceeded against *ex-parte*. It is further submitted that all the subsequent proceedings are also valid and legal and that the present petition be dismissed.

6. I have considered the submissions made by counsel for the parties.

7. Admittedly, the petitioner was proceeded against *ex-parte* in the execution proceedings vide order dated 08.09.2016 (Annexure P-9) and thereafter orders (Annexures P-10 to P-13) were passed by the Executing Court in aforesaid *ex-parte* proceedings. This Court is of the view that at this stage no interference is called for in impugned orders (Annexures P-9 to P-13). However, the petitioner is at liberty to approach the Executing Court concerned seeking setting aside of the aforesaid *ex-parte* proceedings by moving appropriate application in this regard.

8. In light of the above, without commenting on the merits of the case, the present petition is hereby disposed of with liberty to the petitioner to approach the Executing Court concerned within next 03 weeks and to move an application for setting aside of *ex-parte* proceedings in the execution application, which is to be disposed of by the said Court within next 03 weeks thereof, in accordance with law and till then the parties are directed to maintain status quo as on today with regard to possession over the suit property.

(KARAMJIT SINGH)
JUDGE

23.11.2023

Jiten

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