

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3834-2023(O&M)

Date of decision:-13.07.2023

Kewal Singh

...Petitioner

Versus

Jarnail Singh and another

...Respondents

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

Present: Ms.Amarjot Kaur, Advocate
for the petitioner.

Mr.N.K. Vadehra, Advocate
for the respondent No.1.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 16.5.2023 passed by Civil Judge(Jr.Divn.), Gurdaspur dismissing the third party objections filed by the present revision petitioner Kewal Singh in execution titled as 'Jarnail Singh Versus Mangal Singh' pending in that Court.

2. Briefly stated, facts of the case are that plaintiff Jarnail Singh had filed a suit against defendant Mangal Singh (since dead) represented by his legal representatives, seeking a decree for specific performance of agreement. That suit was decreed by the trial Court.

3. The decree holder had filed an execution application wherein during the course of proceedings Kewal Singh appeared and filed third party objections contending that he is owner in possession of the land

measuring about 3 ½ marlas, which is a part of the suit land, for more than 60 years since consolidation of holdings in the village and he has surrounded the said land with a boundary wall, installing a gate, raising construction of house, where he is residing along with his family. He has further contended that he has got installed an electricity connection there; the decree holder has obtained the decree by concealing this fact; this fact is mentioned in the roznamcha report dated 28.1.2023 vide which possession of remaining land had been delivered to the decree-holder, therefore the decree qua that portion is not executable.

4. The objections were resisted by the decree holder contending that the objector has nothing to do with any part of the suit land; he has no right, title or interest therein.

5. After hearing the rival contentions, the Executing Court had dismissed the same vide the impugned order. For ready reference the operative part of the order is being reproduced as under:

5. I have heard the rival contentions and carefully perused the documents on record with the able assistance of both the counsels. Ld. counsel for DH has placed on record the Khasra Girdwari for the years 2017-2022, Jamabandis for the years 1991-1992, 1996-1997, 2001-2002, 2006-2007, 2011- 2012 and 2016-2017. From the careful perusal of the file, it transpires that for the execution of the decree at hand, warrants of possession were issued by this court which were received back with the report dated 28.01.2023 in which Tehsildar concerned submitted that Khasra No.11R/15/1/2 measuring 11 marlas was demarcated in the presence of

respectable persons of the area, however, on the western-southern side of the suit land towards the road, upon the area of 3 ¼ marlas Kewal Singh son of Dalbir Singh has illegal possession and he has also constructed a boundary wall and a bathroom therein and he has also installed a gate. Further, it is submitted in the report that the decree-holder has been given possession of the 7 ¾ portion of the suit land.

6. Now, the said Kewal Singh has moved third party objections by claiming that he is in possession of the land measuring about 3 ½ marlas out of the suit land for the last more than 6 decades i.e. more than 60 years. Notably, while arguing, ld. counsel for Kewal Singh objector relied upon only the above mentioned report of Tehsildar in order to prove ownership and possession of Kewal Singh objector. However, from the Jamabandies and Khasra Girdwari placed on record by DH pertaining to the years 1991-1992, 1996-1997, 2001-2002, 2006-2007, 2011-2012, 2016-2017, the name of objector Kewal Singh has found no mention as an owner or as a person in possession of any part of the suit land as alleged by the Ld. counsel of the objector. Interestingly, Ld. counsel has drawn support only from the above said report of Tehsildar concerned which clearly referred to the possession of objector Kewal Singh over the part of the suit land as 'illegal'. Further, it is also pertinent to mention that objector has claimed to have constructed house surrounded with boundary wall along with a gate whereas the report of the Tehsildar concerned has clearly

submitted that only one bathroom along with boundary wall and gate is there. Since the Tehsildar concerned has made this report only after visiting and inspecting the spot, the contention of the objector that he has constructed a full-fledge house, which is the only house of the objector and his family seems to be meritless. Moreover, in support of his claim the objector has not placed on record even a single document to prove his ownership and so far as the question of his physical possession over the part of the suit land is concerned, the same clearly seems to be totally illegal as no revenue record from the year 1991 has shown his possession and the objectors himself has brought on record an document to show his ownership and possession over the 3 ¼ part of the suit land. As such, the objector Kewal Singh has miserably failed to show that his possession over the part of the suit property is legal.

7. Hence, in light of the foregoing discussion, the third party objections moved on behalf of the applicant Kewal Singh are hereby dismissed.

6. Such order left the applicant/objector aggrieved and he has approached this Court by way of filing the present revision petition. Respondent No.1 has also appeared through counsel.

7. 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.

8. The impugned order passed by the Executing Court is quite

detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction. The status of the objector is nothing more than a trespasser and he has no right to retain the unauthorized possession and is bound to deliver the same to the decree holder in execution of the decree in his favour.

9. Finding no merit in the revision petition, the same stands dismissed.

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

13.7.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No