

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

**CR-4532 of 2022 (O&M)
Date of Decision:- 27.9.2023**

Banti (deceased) through her LRs and another

....Petitioners

Vs.

Dwarka Jagdish and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by:- Mr. Munish Gupta, Advocate
for the petitioner.

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

KARAMJIT SINGH, J.

1. The present petition has been filed by petitioner/Judgment Debtors against the orders dated 16.09.2022, (Annexure P-14 & Annexure P-15) passed by the Executing Court of Additional Civil Judge (Senior Division), Hoshiarpur in Execution No.85/2019, vide which the objections filed by the petitioners have been dismissed and order dated 16.09.2022 (Annexure P-16) vide which warrants of possession of suit property have been issued by the aforesaid Executing Court.

2. The brief facts of the case are that Durga Dass son of Uday Ram, Daropti widow of Charanji Lal, Ram Parkash and Amrit

Lal sons of Charanjit Lal and Parkashvati daughter of Charanjit Lal filed suit for declaration to the effect that they are owners of suit land measuring 56 Kanals 6 Marlas and they also sought possession of the suit land. The suit was contested by the petitioners/their predecessors-in-interest and finally the suit was dismissed by the trial Court vide judgment and decree dated 17.02.1981. The appeal filed by the plaintiffs against the said judgment and decree was also dismissed by the Court of Additional District Judge, Hoshiarpur vide judgment dated 08.10.1983. Being aggrieved the plaintiffs filed regular second appeal and the same was allowed and suit of the plaintiffs for possession was decreed by High Court vide judgment dated 09.02.2005. The special leave petition filed by the other party against the said judgment was dismissed by the Hon'ble Supreme Court. Thereafter, the plaintiffs/their legal heirs have filed an execution application wherein the petitioners filed objection petitions and the same were dismissed by the learned Executing Court vide impugned order, Annexures P-14 and P-15 and the said Court issued warrants of possession of land measuring 56K 6 M vide order, Annexure P-16.

3. Being aggrieved the present petition has been filed by the petitioners.

4. I have heard the counsel for the parties.

5. The counsel for the petitioners while laying challenge to the impugned orders has *inter alia* contended that the total land

mentioned in the plaint is measuring 225Kansals whereas the decree passed in favour of the decree-holders is of land measuring 56K 6M and the said area of 56K 6M is part of a joint land and as such, the possession of the said land measuring 56K 6M cannot be delivered on the basis of the warrants of possession issued by the Executing Court. It has been further contended that after the passing of decree in their favour regarding land measuring 56K 6M, the decree-holders should have filed an application before the Revenue Authorities for partition of the aforesaid joint land measuring 225 Kanal in order to get possession of specific portion measuring 56K 6M of land. The counsel for the petitioners has further argued that the Executing Court cannot go beyond the decree and in the given circumstances the impugned orders are liable to be set aside and the objection petitions filed by the petitioners should be allowed and the execution application filed by the decree-holders deserves to be dismissed.

6. On the other hand, the counsel for the decree-holders while supporting the impugned orders *inter alia* submits that the petitioners have got no right, title or interest in the suit property and they are in unlawful possession of the same as has been held by High Court while allowing the regular second appeal filed by the plaintiffs. The counsel for the decree-holders has further submitted that the special leave petition filed by the petitioners was also dismissed by the Hon'ble Supreme Court. It has been further argued that in order to prolong the execution proceedings, the petitioners filed frivolous objections which are rightly dismissed by the Executing Court vide

orders Annexures P-14 & P-15 and that there is no illegality in order Ex.P16 whereby the Executing Court has issued warrants of possession with regard to suit land measuring 56K 6M. So prayer is made that the present petition be dismissed being devoid of merits.

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

8. The plaintiffs/decreed holders filed suit for possession of the suit land on the ground that they are the owners of the same. The said suit was contested by the petitioners/JDs and the suit of plaintiffs for possession was decreed by the High Court vide judgment dated 9.2.2005 in Regular Civil Appeal No.630 of 1984. The SLP filed against the said judgment was dismissed by the Hon'ble Supreme Court.

9. The plea of the petitioners/JDs in the suit was that they are the owners in possession of the suit land and otherwise also they claimed ownership of the suit land on the basis of adverse possession. The High Court while passing the judgment dated 9.2.2005 held that petitioners/JDs have failed to prove their ownership regarding suit property on the basis of title and they have also failed to prove that they became owner of the suit land on the basis of adverse possession. So it is evident that the petitioners/JDs have no right, title or interest in the suit property and have got no right to raise objection that decree holders could get the possession of specific area measuring 56 kanals 6 marlas only after getting partitioned the entire

joint land measuring 225 kanals 4 marlas. Thus making it clear that they have filed objection petitions in the executing Court to obstruct execution of judgment and decree dated 9.2.2005 and to further prevent the decree holders from enjoying the fruits of litigation.

10. In the light of the above, this Court is of the view that the executing Court rightly dismissed the objection petitions filed by JDs vide impugned orders Ex.P14 and Ex.P15 and there is no illegality in order Ex.P16 whereby the executing Court has issued warrants of possession of the suit land measuring 56 kanals 6 marlas.

11. For the forgoing reasons the present revision petition is dismissed being devoid of merits.

27.09.2023
Jiten/Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No