

CR-5918 of 2023 (O&M)

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

CR-5918 of 2023 (O&M)
Reserved on: 17.10.2023
Pronounced on: 09.11.2023

Kulwant Singh and another

.....Petitioners

Versus

Dr. Jatender Kumar Narula

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Vinod Gupta, Advocate,
for the petitioners.

Mr. Vijay Sharma, Advocate,
for the respondent.

NAMIT KUMAR, J.

CM-19295-CII of 2023

1. This application has been filed under Section 151 CPC for placing on record Annexures P-5 to P-7 and list of dates and events.
2. Allowed as prayed for. Aforesaid documents are taken on record subject to all just exceptions.

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1. Instant revision petition has been filed by the petitioners under Article 227 of the Constitution of India challenging the order dated 25.08.2023 passed by the Court of learned Civil Judge (Senior Division), Patiala, whereby additional objection filed by the petitioner has been dismissed.

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2. Facts necessary for disposal of the present revision petition are that respondent filed a suit against Jagdish Kumar son of Ram Murti and Raj Dulari wife of Ram Murti for declaration to the effect that he (the plaintiff) was owner in possession of Kothi No.46, Passey Road, Patiala and the land appurtenant thereto comprised in Khasra Nos.201 to 208 and further for permanent injunction. The suit was decreed in favour of Dr. Jatinder Kumar Narula (plaintiff therein) vide judgment and decree dated 05.02.1993 (Annexure P-2). During the pendency of the suit, Raj Dulari executed an agreement to sell dated 31.07.1988 qua 1 biswa of land comprising of the suit property herein. Thereafter, a sale deed dated 27.08.1988 was executed qua 2 biswa of land in favour of the petitioner herein by Raj Dulari. Though the principle of *lis pendens* would apply since the sale was made during the pendency of the suit, however, a second suit for possession was preferred by the respondent - Dr. Jatinder Kumar Narula - and his brother, Harinder Kumar Narula against the petitioners herein. The said suit was decreed vide judgment and decree dated 20.11.2001. Aggrieved by the said judgment and decree, an appeal was preferred which was dismissed by the First Appellate Court vide judgment and decree dated 24.11.2003. Still not satisfied, a Regular Second Appeal being RSA No.2460 of 2004 was filed which was dismissed vide order dated 14.03.2005. Special Leave Petition (Civil) No.14264 of 2005 was filed challenging the order dated 14.03.2005 passed by this Court in RSA No.2460 of 2004. The said Special Leave Petition was also dismissed vide order dated 29.07.2005. Thereafter, an execution

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petition was preferred by the respondent herein. In the execution petition, an application was filed by the petitioners herein for appointment of a revenue official to demarcate the property before the possession could be handed over. The said application was dismissed by the Executing Court vide order dated 26.08.2013. Aggrieved by the said order, a revision petition being CR No.7367 of 2013 was filed which was dismissed vide order dated 16.05.2016. Subsequently, an application for amendment of the objection was filed which was dismissed vide order dated 09.02.2017. A revision petition being CR No.2535 of 2017 was yet again filed. Meanwhile, the Executing Court dismissed the objections itself filed by the petitioners herein vide order dated 27.07.2017. On 31.08.2017, CR-2535 of 2017 was disposed of with liberty to the petitioners to file appeal against the dismissal of the main objection along with application for amendment. The above order dated 27.07.2017 was challenged by the judgment debtors before this Court by way of filing CR-8414 of 2017 and the same stands dismissed vide order dated 02.05.2023 after hearing both the parties. In para 11 of the said order, this Court observed as under: -

“It is oft said that the travails of a decree holder commence after he has obtained a decree in his favour. In the present case the petitioners herein have left no stone unturned to defeat the rights of the respondent who has a decree in his favour which was passed in the year 2001. Since 2001 the respondent is being dragged from one Court to another because of which he has been unable to reap the benefits of a decree in his favour.”

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3. Thereafter, petitioners filed additional objections, which have been dismissed by the Executing Court vide impugned order dated 25.08.2023.

4. Learned counsel for the petitioners contended that the impugned order passed by the Executing Court is erroneous. The Court has wrongly dismissed the additional objections filed by the petitioners without appreciating the fact that respondent wants to grab the land of the petitioners out of khasra No.170 which was purchased by the petitioners in the year 1969.

5. On the other hand learned counsel for the respondent supported the impugned order by submitting that additional objections of the petitioners have rightly been dismissed as the same cannot be raised before the Executing Court.

6. I have heard learned counsel for the petitioners and perused the record.

7. Suit of the respondent-plaintiff was decreed vide judgment and decree dated 20.11.2001 directing the petitioners-defendant to deliver the possession within two months from the said judgment and decree. The said judgment and decree has attained finality upto the Hon'ble Supreme Court. The objection with regard to identity of the suit property could only be raised by the petitioner during trial. The said objections could not be raised before the Executing Court when the decree has attained finality upto the Hon'ble Supreme Court. Objections regarding demarcation/identity of the property filed by the petitioner have already been considered by this Court in CR-7367 of

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2013 and vide order dated 16.05.2016 it was held that same was required to be raised during trial and the Executing Court was directed to deliver the possession in strict conformity with the site plan. Therefore, additional objections of the petitioners have rightly been dismissed.

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 as the present petition is nothing but an abuse of process of law.

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

09.11.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No