

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

**CR-5964-2023 (O&M)
Date of Decision : 11.10.2023**

Chandan since deceased through LR Suresh and another

..... Petitioners

Versus

Zila @ Zile (deceased) through his LRs and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Mayur Karkra, Advocate and
Ms. Neha Dewan, Advocate
for the petitioners.

VIKRAM AGGARWAL, J (ORAL)

CM-18718-CII- 2023

The application filed under Section 151 CPC for exempting the applicants-petitioners from filing the certified/typed copies of the impugned orders as well as Annexures P-1 to P-6 is allowed as prayed for subject to all just exceptions.

CR-5964-2023

1. The present revision petition, filed under Article 227 of the Constitution of India, assails the orders dated 07.08.2022, 20.09.2023 and 27.09.2023, passed by the Executing Court, Kaithal. Vide order dated 07.08.2022, objections filed by the petitioners/Judgment Debtors to the execution petition filed by the respondents/decreed-holders were dismissed and warrants of possession were ordered to be issued. By way of subsequent

orders dated 20.09.2023 and 27.09.2023 also, proceedings regarding warrants of possession were continued.

2. The facts, as emanating from the paper book, are that the respondents/decreed-holders filed a suit for possession with regard to certain land (fully described in the plaint), situated within the revenue estate of Village Pai, Tehsil Kaithal. The said suit was decreed by the Court of Sub Judge, IInd Class, Kaithal vide judgment dated 04.09.1985 (Annexure P-1). The first appeal filed against the said judgment was dismissed by the Court of Addl. District Judge, Kurukshetra on 11.05.1987 (Annexure P-2). Against the said judgment dated 11.05.1987, a regular second appeal was filed which was also dismissed by this Court vide judgment dated 14.05.2014 (Annexure P-3). The Special Leave Petition was also dismissed vide order dated 01.08.2014 (Annexure P-4). The Execution petition (Annexure P-5) was accordingly filed by the respondents/decreed-holders. Objections were filed by the petitioners/judgment debtors primarily on the ground that the execution petition was barred by limitation. It was averred that since the decree by the First Appellate Court had been passed on 11.05.1987 and there was no stay in the regular second appeal, the execution petition would be barred by limitation. The Executing Court, however, rejected the objections holding that the execution petition was not barred by limitation.

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

4. Learned counsel for the petitioners has strenuously urged that the Executing Court erred in holding that the execution petition was not

barred by limitation. It has been submitted that though stay was granted in regular second appeal, it was not extended subsequently and, therefore, limitation would start running from the day when the stay ended. In support of his contentions, learned counsel has placed reliance upon the judgment of Hon'ble Supreme Court in *Ashok Kumar and Ors. Versus State of Haryana and Anr. 2007 (3) SCC 470.*

5. I have considered the submissions made by learned counsel for the petitioners but find the same to be devoid of merit.

6. It is a matter of great concern that a decree of 1985 has not been executed till today. The judgment of the trial Court came to be passed on 04.09.1985. The first appeal was dismissed on 11.05.1987. The matter then remained pending before this Court till the decision of the Regular Second Appeal No.1933 of 1987, titled as Tek Chand and others versus Bir Singh and others i.e. 14.05.2014 (Annexure P-3). The Special Leave Petition was dismissed on 01.08.2014 (Annexure P-4). Now the question which would arise would be as to whether the execution petition would be barred by limitation. The answer is in the negative. The record of RSA No.1933 of 1987 was duly summoned. A perusal of the record shows that initially stay was granted on 02.06.1987. Thereafter, on 10.09.1987, it was ordered that stay would continue till further orders. No doubt, on a couple of subsequent dates, it was ordered that stay would continue and on subsequent dates no such order was passed. However, this would not make a difference once the Bench had ordered that stay would continue till further orders. The limitation would, therefore, start running from the date of decision of regular second appeal i.e. 14.05.2014. The order dated 07.08.2022 shows that the

execution petition had been filed in the year 2018 which would be within limitation since Article 136 of the Limitation Act, 1963 provides for a period of 12 years for execution of such a decree. In the case of Ashok Kumar and others versus State of Haryana and another (supra), the Hon’ble Apex Court held that once an interim order was extended from time to time and had been extended only till a particular date, it would continue only till that date and no specific order would be required to be passed for its vacation. There is no dispute in the said proposition. However, this judgment will not come to the aid of the petitioners-judgment debtors once in the regular second appeal, the stay had been ordered to continue till further orders.

7. Under the circumstances, the Executing Court did not commit any illegality in rejecting the objections and issuing the warrants of possession. The impugned orders dated 07.08.2022, 20.09.2023 and 27.09.2023, passed by the Executing Court, Kaithal do not, therefore, call for any interference in revisional jurisdiction

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

11.10.2023
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No