

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.7739 of 2023 (O&M).
Date of Decision: 20.12.2023.

Devender Singh

....Petitioner.

Versus

Municipal Corporation, Panipat and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Rajesh Goyal, Advocate for petitioner.

Lalit Batra, J.(Oral)

This civil revision petition under Article 227 of the Constitution of India has been filed by petitioner/decreed holder seeking direction to Executing Court, to decide Execution Petition No.115 of 2022 titled 'Devender Singh vs. Municipal Corporation and another' expeditiously.

2. Learned counsel for petitioner *inter alia* contended that petitioner had filed an application under Section 22-C of the Legal Services Authorities Act, 1987 (hereinafter to be referred as 'Act, 1987'), against Municipal Corporation, Panipat and another, for settlement of matter as respondents were not finalizing the permission of building plan of the property. Said application was allowed by Permanent Lok Adalat (Public Utility Services), Panipat, vide Award dated 26.11.2021 (Annexure P-1). No appeal or revision against the said Award was filed by the department concerned and after waiting for several months, when petitioner did not receive any summons from any Court,

he filed Execution Petition No.115-2022 (Annexure P-2) for implementation of Award dated 26.11.2021, which is pending adjudication before Executing Court (Additional Civil Judge (Senior Division), Panipat, since 21.10.2022. He further contended that as per guidelines laid down by Hon'ble Supreme Court in case **Rahul S. Shah vs. Jinendra Kumar Gandhi & Ors, (2021) 6 SCC 418**, execution proceedings are to be disposed of within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

3. I have heard learned counsel for petitioner and have also gone through the contents of petition especially the documents placed on the record.

4. Notice of instant petition is not required to be given to respondents as relevant documents are already on record. In order to avoid further delay in the litigation and unnecessary litigation expenditure, the service of notice to respondents is dispensed with.

5. A bare perusal of record of instant petition reveals that on application under Section 22-C of Act, 1987, moved by petitioner against respondents, Award (Annexure P-1) was passed on 26.11.2021. For implementation of said Award, petitioner had filed Execution Petition No.115 of 2022 (Annexure P-2) on 21.10.2022, in the Civil Court and the same is pending adjudication till date.

6. The guidelines laid down by Hon'ble Supreme Court in **Rahul S. Shah**'s case (supra) are reproduced hereunder:-

“42. All Courts dealing with suits and execution proceedings shall mandatorily follow the below-mentioned directions:

42.1. *In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third- party interest and further exercise the power under Order 11 Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third-party interest in such properties.*

42.2. *In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.*

42.3. *After examination of parties under Order 10 or production of documents under Order 11 or receipt of Commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.*

42.4. *Under Order 40 Rule 1 of CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.*

42.5. *The Court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.*

42.6. *In a money suit, the Court must invariably resort to Order 21 Rule 11, ensuring immediate execution of decree for payment of money on oral application.*

42.7. *In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree.*

42.8. *The Court exercising jurisdiction under Section 47 or under Order 21 CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.*

42.9. *The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.*

42.10. *The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35A.*

42.11. *Under section 60 of CPC the term “...in name of the judgment-debtor or by another person in trust for him or on his behalf” should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.*

42.12. *The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.*

42.13. *The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance*

to such officials who are working towards execution of the decree. Further, in case of an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law. 42.14. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the Court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the Executing Courts.”

7. In view of above, taking into consideration the fact that Execution Petition No.115-2022 titled ‘Devender Singh Vs. Municipal Corporation, Panipat and another’ for execution of Award dated 26.11.2021 is pending adjudication since 21.10.2022, thus, in view of above said guidelines issued by Hon'ble Supreme Court in Rahul S. Shah's case (supra), learned Executing Court is directed to expedite the proceedings of Execution Petition No.115-2022 in letter and spirit by making earnest and sincere efforts, without prejudice to the rights of either petitioner or respondents. Petition is disposed of accordingly.

8. Since the main petition itself has been disposed of, pending application(s), if any, also stands disposed of.

(LALIT BATRA)
JUDGE

20.12.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No