



126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3204-2023 (O&M)

Date of decision: 24.05.2024

Bhup Singh @ Bhoop Singh

....Petitioner

Versus

Balbir Singh (deceased) through LR's and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sachin Mittal,
Mr. Akshat Mittal and
Mr. Parth Sharma, Advocates for the petitioner

ANIL KSHETARPAL, J (Oral)

1. A decree for permanent injunction was passed in favour of the petitioner on 12.06.1984. The petitioner filed an execution petition under Order XXI Rule 32 of the Code of Civil Procedure, 1908 which was dismissed by the Executing Court. The petitioner filed a revision petition before the High Court, challenging the order passed by the Executing Court, which was disposed of with the following observations:-

"I am of the opinion that executing court cannot go beyond the decree. The decree is simpliciter for permanent injunction to restrain the respondents from interfering in the petitioner's possession and not to raise any construction. In the suit it was also pleaded that in case respondents raise construction or succeed in taking possession, then possession be restored after demolition. The court while granting decree did not pass decree for restoration of possession after demolition of construction. It granted a simpliciter decree for permanent injunction to restrain the respondents from interfering in the petitioner's possession and not to raise any construction. The petitioner had landed



himself in this state of affairs on account of his own fault. Admittedly, the petitioner was out of possession when the execution petition was filed. He had to show to the court which pass the decree that respondents had taken the possession during the pendency of the suit, but it was neither pleaded nor proved. It appears that petitioner was keen to obtain ex parte decree so that true facts do not come on record that the respondents were in possession when the suit was filed. Under these circumstances, no relief can be granted to the petitioner in the execution proceedings and the proper remedy for him would be to file a suit for possession on basis of title, if he has any in the land in dispute. With this order and directions, the revision stands disposed off.”

2. The petitioner instead of filing the civil suit for possession, filed a second execution petition on 21.07.2017, which has also been dismissed by the Executing Court on the ground that as per the directions of the High Court, the petitioner was required to file a suit for possession.

3. The correctness of the aforesaid order passed by the Executing Court dismissing the plaintiff's execution petition is challenged in this revision petition.

4. Learned counsel representing the petitioner contends that the decree in favour of the petitioner is categoric and the Executing Court has erred in dismissing the execution petition.

5. This Court has considered the submissions made by the learned counsel representing the petitioner.

6. The revision petition filed by the petitioner was disposed of by the High Court with the observations, which have been extracted above. In view of the aforesaid facts, the petitioner was either required



to file an appeal against the previous order passed by the High Court or to comply with the same.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Hence, dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

24.05.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE