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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of decision: 25.04.2024

Pritam Nath

...Petitioner.

Versus

Ved Prakash Gupta and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Meenal Garg, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 27.09.2023, passed by Civil Judge (Junior Division), Faridabad, vide which execution petition EXE/280/2021 filed by petitioner-decree holder for execution of judgment and decree dated 25.07.2014, was dismissed.

2. The relevant facts for adjudication of the present revision petition are that vide judgment and decree dated 25.07.2014 passed by learned Civil Judge (Jr. Divn.), Faridabad, the suit of the petitioner for permanent injunction restraining the respondents from interfering into the peaceful possession of the petitioner or from dispossessing him illegally and forcibly from the property subject matter of that suit, was decreed. It has been alleged that the said decree attained finality as Civil Appeal No.48 of

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2014 preferred before the Appellate Court, Faridabad was dismissed on 07.05.2016, Regular Second Appeal No.5560 of 2016 filed before this Court was dismissed on 09.12.2022 and Special Leave Petition (C) No.5465 of 2023 filed before the Hon'ble Supreme Court of India was dismissed on 27.03.2023.

3. In the year 2021, the petitioner filed an execution petition seeking attachment of the property of the respondents and arrest of the respondents for not obeying the aforementioned decree. It was alleged in the said execution petition that the respondents were causing interference and obstruction in the peaceful possession of the petitioner over the aforesaid property. The respondents preferred their objections under Section 47 read with Order XXI Rule 58 of CPC, which were duly replied by the petitioner. The Executing Court vide order dated 27.09.2023, dismissed the objections of the respondents. But vide the said order the Executing Court also dismissed the execution petition by holding that the execution petition was vague. Hence, petitioner has knocked the doors of this Court by way of filing the present revision petition.

4. Learned counsel for the petitioner, while relying upon the judgment of this Court in **Dilbagh Singh and others Vs. Harpal Singh @ Harpal Singh Chela and others, PLR (2020) 197 P& H 601** has contended that there is no requirement under Order XXI Rule 32 CPC to make specific averments regarding dispossession or interference in possession. He has further contended that the Executing Court failed to take into account the fact that the averments of the respondents in their objections *ipso facto*

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demonstrated that they were and have been interfering in the peaceful possession of the petitioner qua the suit property and has taken shelter under the false narrative purportedly being in possession of plot 19-B which is not in existence. He has contended that the findings recording in para 12 of the impugned order be set aside and obstruction and hindrance being caused in the peaceful possession of the petitioner over the suit property be stopped.

5. I have heard learned counsel for the petitioner and has gone through the relevant record.

6. It has been rightly held by the Executing Court that once it is shown that the peaceful possession of DH has been disturbed by the JD or interference has been caused therein, the DH has a valid cause of action to file execution petition to enforce the judgment and decree. But perusal of the execution petition reveals that it has not been disclosed therein that in which manner the alleged interference or obstruction is being caused by the JD into peaceful possession of DH. It has also been specifically recorded in the impugned order that even during hearing of the petition on 16.09.2023, the DH was granted an opportunity by the Court to clarify and assist the Court by revealing the nature of interference being caused by the JD, so that appropriate directions and order could be passed by the Court for the removal of such interference or obstruction and even for taking appropriate coercive measure as provided for in order XXI Rule 32 CPC. But despite the said opportunity, the DH was unable to bring to the notice of the Court the nature of interference or obstruction allegedly being caused into his peaceful possession. It was incumbent on the part of the DH to state in

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which manner the interference was being caused and some specific instance might have been quoted that the JDs had been interfering in the DH's possession. But when no specific facts and such circumstances have been brought on record, then no order could be passed by the Court for directing the JDs to desist from any act.

7. Facts of the case in Dilbagh Singh's case (supra) which has been relied upon by counsel for the petitioner are not applicable to the facts of the case in hand as in the said case the JD has been dispossessed and the Executing Court issued warrants of restoration of possession since he had been dispossessed after passing the decree and the possession was to be restored to him.

8. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

25.04.2024.
komal

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