

CR-1992-2024 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

126

CR-1992-2024 (O&M)
Date of decision: 27.05.2024

Kulwant Singh

...Petitioner.

Versus

Balwant Kaur (since deceased) through LRs and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Rajinder Goel, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 16.03.2024 (Annexure P1), passed by the trial Court, in Execution Application No.174 of 2015 vide which the objections filed by the petitioner, were dismissed and warrant of possession have been issued in favour of respondent No.1 (DH).

2. The brief facts relevant for adjudication of the present revision petition are that respondent No.1-Balwant Kaur filed civil suit No.722 of 1989/ 1993 titled as Smt. Balwant Kaur Vs. Gurmeet Singh and others, seeking a decree for possession by way of pre-emption regarding the land in dispute. The said suit was decreed by learned trial Court vide judgment and decree dated 26.09.1994. The aforesaid judgment and decree was challenged by filing civil appeal No.64 of 1994 before the Appellate Court,

CR-1992-2024 (O&M)

- 2-

which was dismissed vide judgment and decree dated 12.10.1995. It was further challenged by way of RSA-2508 of 1995, which was also dismissed vide judgment dated 19.05.2015, which has attained finality. Then, Smt. Balwant Kaur during her lifetime moved an execution application No.174 of 2015 titled as Balwant Kaur (since deceased) through LRs Vs. Gurmeet Singh (since deceased) through LRs and others, for seeking execution of judgment and decree dated 26.09.1994 passed by the trial Court, which stood affirmed upto this Court. The petitioner resisted the execution application by filing objections alleging that the land subject matter of the execution is joint property which is jointly owned and possessed by all the co-sharers in the joint khewat and the warrants of possession of the joint property cannot be issued and possession can only be taken by the decree holder in partition proceedings and as such the execution petition was not maintainable. It was also alleged that the decree dated 26.09.1994 cannot be executed as it was a conditional decree and the plaintiff was required to deposit a sum of Rs.1,59,841.50/- within two months which had not been deposited within said time. Reply to the said objections was filed and the objections were dismissed by the Executing Court vide impugned order dated 16.03.2024. Hence, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the revision petitioner has contended that the warrants of possession have been issued by the Executing Court by completely ignoring the decree and the Executing Court has also failed to consider that the execution application was barred by limitation. He has also

CR-1992-2024 (O&M)

- 3-

contended that under the garb of the execution decree the decree holder wants to get the actual physical possession, which is not permissible.

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

5. From the record it emerges that the suit of the plaintiff which was decreed vide judgment and decree dated 26.09.1994 was upheld upto this Court. The First Appellate Court vide passing the judgment and decree dated 12.10.1995 has held that the amount of Rs.1,59,841.50/- which was required to be deposited within two month from 26.09.1994, the same shall be deposited within a month, which was complied with. So, this objection of the revision petitioner was not sustainable that the aforesaid amount has not been deposited within the stipulated period. The pleas which were taken by the revision petitioner in the objections had already been taken during the trial and the appeal proceedings and it is well settled proposition of law that the Executing Court is not to go behind the decree. This contention raised by learned counsel for the petitioner also does not cut the ice that under the garb of the present execution the decree holder intends to take the actual physical possession, as in the impugned order, it has been categorically mentioned that in order to execute the decree, the warrants of possession be issued with a direction to hand over symbolic possession in favour of the decree holder as per his share.

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

CR-1992-2024 (O&M)

- 4-

dismissed.

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

(SUKHVINDER KAUR)
JUDGE

27.05.2024.
komal

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