

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

130

CR-2385-2024
DATE OF DECISION: 25.04.2024

Mohinder Singh

.....Petitioner

VERSUS

Satnam Singh and another

.....Respondents

CORAM HON’BLE MR. JUSTICE GURBIR SINGH

Present

Mr.Raghav Sharma, Advocate,
for the petitioner.

GURBIR SINGH, J

1. Challenge in this revision petition is to the impugned order dated 06.03.2024, passed by learned Civil Judge (Jr.Divn), Pehowa, District Kurukshetra, whereby, application for setting aside the exparte order dated 16.11.2022 (Annexure P-8), has been dismissed.
2. Brief facts culled out from the revision petition are that father of respondent no.1 / plaintiff filed a suit for possession of the suit property and same was decreed vide judgment and decree dated 19.07.2017 (Annexure P-1). Petitioner assailed the said judgment and decree before the Appellate Court but the appeal was dismissed. Father of the respondent no.1 transferred the suit property in his favour so respondent no.1 filed the execution of the said judgment and decree. Summons were issued to the petitioner for 16.11.2022 but the same were neither served nor he refused to receive the summons. On the basis of false report procured on the summons, petitioner was proceeded against exparte. In the third week of February, petitioner came to know about the filing of the execution so he moved an application for setting aside the exparte order dated 16.11.2022. Petitioner also moved objections regarding the mode of partition. Reply of the said objection was already filed by respondent no.1. Vide impugned order, the application for setting aside the exparte order was dismissed but objections filed by petitioner has been taken on record.

3. It is argued by the learned counsel for the petitioner that the petitioner neither received nor refused to receive the summons and the Process Server was not even known to the petitioner. Under the signature of the Chowkidar, no date and time is mentioned when he put the signatures. There is no report regarding the identification of the address of the petitioner.

4. I have heard the learned counsel for the petitioner and have gone through the case file very carefully.

5. From the report, it is very much clear that petitioner refused to receive the summons. The said report is also attested by Chowkidar of the village and in the report itself it is mentioned that the petitioner refused to allow affixation of the summons. So, there is no illegality in the impugned order passed by the learned Executing Court. Moreover, the petitioner has filed objections on the report of the Local Commissioner. In other words, the petitioner is allowed to join the proceedings in the Execution and no prejudice has been caused to the petitioner. The exparte proceedings are set aside to reverse the clock so that party is able to defend the case but in execution there is no need to reverse the clock as rights of parties are already decided. The Executing Court is bound to execute the decree in accordance with the law.

6. Under such circumstances, this Court do not find any illegality or perversity in the impugned order dated 06.03.2024, passed by learned Civil Judge (Jr.Divn), Pehowa, District Kurukshetra dismissing the application for setting aside the exparte order dated 16.11.2022.

7. No ground for interference is made out.

8. Dismissed in *limine*.

25.04.2024
mamta

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No