



142 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

ESA-27-2024(O&M)  
Date of decision : 07.05.2024

Sajjan Singh ...Appellant

Vs.

Smt. Kamlesh and others ...Respondents

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Varun Baanth, Advocate for  
Mr. Ravinder Hooda, Advocate  
for the appellant.

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**ANIL KSHETARPAL, J.** (Oral)

1. This execution second appeal has been filed by the third party objector, who is the nephew of the Judgment Debtor. Sh. Vazir Singh filed a suit for declaration with a consequential relief for permanent injunction. The defendants filed the counter-claim. After the parties were allowed to lead evidence, the suit filed by Sh. Vazir Singh was dismissed, whereas, the counter-claim filed by the decree holder i.e. defendants was allowed on 22.09.2017. The first appeal filed by Sh. Vazir Singh was dismissed on 21.11.2018. In order to implement the decree, the decree-holders filed an execution petition, in which, the objections were filed by the petitioner. Both the Courts below have dismissed the objection petition.

2. Learned counsel representing the petitioner submits that it was not appropriate for the Executing Court to dismiss the objection petition filed by the third party without culling out the issues and permitting the petitioner to



lead evidence. He further submits that the petitioner is in possession since 1880.

3. This Court has considered the submissions made by the learned counsel for the petitioner.

4. In ‘Rahul S. Shah v. Jinendra Kumar Gandhi and Others’, (2021) 6 SCC 418, the Hon’ble Supreme Court has held that it is not mandatory to settle issues unless the objector establishes a very good *prima facie* case. The expression used by the Hon’ble Supreme Court is ‘rare’ and ‘in exceptional cases’.

5. As regards the second submission, it shall be noticed that the petitioner has not produced any material to prove that he has any independent right apart from his uncle, who has already suffered decree, not only from the trial Court but also from the First Appellate Court.

6. Hence, no ground to interfere is made out.

7. Dismissed.

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

07.05.2024  
neeraj

(ANIL KSHETARPAL)  
JUDGE

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