

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119

CR-2720-2024 (O&M)
Date of decision: 03.05.2024

Kartar Singh

...Petitioner

Versus

Gram Panchayat, Village Gurusar Sainewala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Deepak Kohli, Advocate for the petitioner.

VIKAS SURI, J.

1. This revision petition has been filed by the petitioner-judgment debtor-Kartar Singh under Article 227 of the Constitution of India for setting aside order dated 01.08.2023 (Annexure P-5), passed by Civil Judge (Jr. Divn.), Bathinda, whereby the objections filed by the petitioner-judgment debtor have been dismissed.

2. The facts in brief, as culled out from the paper book, are that the respondent-decree holder Gram Panchayat of Village Gurusar Sainewala, had instituted a suit for possession of land measuring 1 kanal 19 marlas, situated at Village Gurusar Sainewala, Tehsil and District Bathinda, which is under the illegal and unauthorized possession of the defendants, on the basis of demarcation report dated 07.08.2015. The said suit was filed through authorized person and member panchayat, namely Sukhdev Singh, which was duly contested. After taking

evidence, the said suit was decreed, vide judgment and decree dated 13.11.2019 (Annexure P-1), and whereby the defendants were directed to hand over vacant possession of the suit property to the plaintiff within three months.

3. Thereafter, execution petition was filed on 18.08.2020, through the authorized person and member panchayat, namely Sukhdev Singh. The petitioner-decree holder filed objections primarily on the ground that the execution application had not been filed by the decree holder-Gram Panchayat through an authorized person, and that Sukhdev Singh was neither panch nor member of the decree holder-Gram Panchayat and there was no resolution passed in his favour. It is further submitted that the judgment and decree dated 13.11.2019 had not attained finality and an appeal thereagainst is pending before the first Appellate Court.

3.1 The aforesaid objections were dismissed vide order dated 01.08.2023 and the same has been impugned by way of the present revision petition.

4. I have heard learned counsel for the petitioner and perused the record with his able assistance.

5. Admittedly, the suit instituted by the Gram Panchayat of Village Gurusar Sainewala was decreed vide judgment and decree dated 13.11.2019. The said suit had been filed through its authorized person and member panchayat Sukhdev Singh. The authority of the aforesaid person to institute the suit on behalf of the Gram Panchayat was

contested by the petitioner-JD and a specific issue had also been framed.

Issue No.8 reads thus,

“Whether the suit has not been filed by authorized and competent person? “

6. The onus to prove the abovesaid issue was upon the defendants, i.e. petitioner-JD. However, neither any evidence was led in that regard nor any argument was advanced on the said issue and accordingly, the same was decided in favour of the Gram Panchayat and against the defendants including the petitioner-JD.

7. It is also noticed that the execution application was filed by Sukhdev Singh during the pendency of the execution proceedings, the respondent-Gram Panchayat passed another resolution dated 10.07.2023, wherein the decree holder-Gram Panchayat again authorized Sukhdev Singh as its representative. It is not disputed that the suit was filed through Sukhdev Singh being a representative of the Gram Panchayat and the issue framed in that regard was decided in favour of the respondent-Gram Panchayat/decreed holder. In that context, the Executing Court observed that it cannot go behind the decree passed in the civil suit and execution proceedings initiated by the decree holder are only to enforce the decree passed, wherein the substantive dispute has been decided. It is also apparent from the record that the judgment and decree dated 13.11.2019 passed by the trial Court has not been stayed by the first Appellate Court and it is settled law that mere pendency of appeal is no ground to stay the execution proceedings. Reference is made to the provisions under Order 41 Rule 5(1) CPC.

8. On a query of the Court, learned counsel for the petitioner has very fairly conceded that no material has been placed on record before the Executing Court in support of the averments made in the objections. In view of the above, the petitioner has failed to point out any legal infirmity in the impugned order, much less perversity that would warrant interference by this Court.
9. No other point was urged.
10. Accordingly, the present revision petition being bereft of merit, is dismissed in *limine*.

May 03, 2024
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(VIKAS SURI)
JUDGE

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