



136

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-5715-2024

Date of decision: 30.09.2024

Pritpal Singh

...Petitioner

Versus

Narinder Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashish Gupta, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside/quashing the order dated 29.08.2024 (Annexure P-14) passed by the Additional Civil Judge (Senior Division), Dhuri in execution petition bearing No.EXE/32/2017 arising out of judgment and decree dated 06.07.2013 passed by the same Court in Civil Suit bearing No.CS/20/2011 vide which an application filed by the petitioner/Judgment Debtor for disposing of the execution petition has been dismissed.

2. Brief facts of the present case are that on 17.01.2011, the respondent-plaintiff had filed a suit for specific performance of the agreement to sell dated 07.04.2009 which was stated to be extended on 30.12.2009 upto 15.06.2010 with direction to the defendant to execute the



registered sale deed in favour of the plaintiff with respect to the house in question and to hand over the vacant possession of the house in dispute to the plaintiff. Vide judgment and decree dated 06.07.2013 (Annexure P-2), the suit filed by the respondent-plaintiff was decreed and the defendant/present petitioner (hereinafter to be referred as “petitioner”) was directed to execute and register the sale deed in favour of the plaintiff within a period of one month from the date of decree and was further directed to deliver the possession of the suit property to the respondent-plaintiff. Further injunction was also granted restraining the defendant from alienating the suit property to anyone except the petitioner. An appeal filed against the said judgment and decree dated 06.07.2013 was dismissed for non-prosecution by the First Appellate Court vide order dated 05.10.2016.

3. The petitioner had filed an application for restoration of the said appeal and the said application was also dismissed by the First Appellate Court vide order dated 26.07.2018 (Annexure P-5). Thereafter, the petitioner had filed Civil Revision bearing No.CR-6550-2018 which was also dismissed on 28.02.2019 by the Coordinate Bench of this Court. The said orders were challenged before the Hon’ble Supreme Court and the Hon’ble Supreme Court vide order dated 05.08.2022, allowed the application for restoration and observed that the appeal be restored and the First Appellate Court was directed to decide the appeal within a period of three months. In pursuance of the said order, the First Appellate Court vide judgment dated 31.10.2022 (Annexure P-8) had dismissed the said appeal on merits. Regular Second Appeal No.2649 of 2022 filed by the petitioner against the said judgment and decree was also dismissed by the Coordinate



Bench of this Court vide judgment dated 04.01.2023 (Annexure P-9). SLP filed against the same was also dismissed vide order dated 20.02.2023 (Annexure P-10). In the meantime, the respondent had filed execution of the judgment and decree which, as has been detailed hereinabove, was upheld upto the Hon'ble Supreme Court. On 07.12.2017, Jarnail Singh, Najir was appointed as Local Commissioner for execution and registration of the sale deed in favour of the decree holder as per decree dated 06.07.2013. It is not in dispute that the sale deed has been executed through the Court of law. On 04.05.2023, the present petitioner, who is the Judgment Debtor, had filed an application praying that the execution application be disposed of.

4. The said application was dismissed vide order dated 29.08.2024 (Annexure P-14) by the Executing Court and it was directed that the warrants of possession be issued. Operative part of the said order dated 29.08.2024 is reproduced hereinbelow:-

“13. Since, the execution in hand is qua decree passed in year 2013 and decree holder is running from pillar to post for execution thereof since 27.4.2017 when he filed the executon in hand, accordingly, warrants of physical possession of the property i.e. house in question be issued immediately for 27.09.2024 against the JD and in favour of the decree holder addressed to the SDM, Dhuri who shall look into the matter personally and ensure the compliance thereof without fail, with Police help already granted by the learned District and Sessions Judge, Sangrur vide letter No.7993/EB dated 22.11.2018 (copy of letter of Police help be also sent to the concerned Revenue and Police Authorities for ready reference and immediate compliance). A copy of order be also sent to the concerned Station House Officer for immediate compliance of



the order without any lapse, failing which, appropriate action will be initiated against the erring officials.

Ahlmad to comply immediately. File be put up on 27.09.2024.”

5. Learned counsel for the petitioner has challenged the order dated 29.08.2024 and has submitted that in the present case, the original decree was passed with respect to various khasra numbers which included khasra number 217 (0-7) but the sale deed has been executed with respect to khasra No.271 and thus, decree is being executed beyond the relief granted in the original suit.

6. The abovesaid argument raised to challenge the impugned order is meritless. A perusal of para 11 of the order dated 29.08.2024 would show that decree holder had filed an application for correction with respect to mentioning of wrong khasra number and same was corrected from 217 to 271 vide order dated 26.07.2019. The said fact has not been disputed before this Court. A copy of the order dated 26.07.2019 has neither been produced on record nor the same has been challenged and thus, it is not open to the petitioner to now raise the said plea in the absence of challenge to the order dated 26.07.2019. The sole argument raised to challenge the impugned order thus, deserves to be rejected.

7. In the present case as is apparent from the record, the petitioner has made every effort to delay the execution proceedings. The suit for specific performance was decreed on 06.07.2013 and thereafter, the appeal filed by the petitioner was dismissed in default and the same was restored vide order dated 05.08.2022 by the Hon'ble Supreme Court and the appeal



was directed to be decided on merits. The appeal filed by the petitioner was dismissed on merits on 31.10.2022 and RSA filed by the petitioner was dismissed on 04.01.2023 and even SLP filed by the petitioner against the same was dismissed on 20.02.2023.

8. A perusal of the impugned order dated 29.08.2024 would show that the petitioner had attempted to raise the issue with respect to identity of the property even at the belated stage of execution whereas no such issue was raised by the petitioner in the civil suit and the said fact was specifically recorded in the impugned order, which fact has also not been disputed before this Court. It was also noticed in para 10 of the order that Anita Rani wife of the present petitioner had also filed objections and the same were dismissed on 15.05.2019 and that execution has been delayed by the petitioner by engaging different counsel from time to time and that the warrants of possession had earlier been issued with respect to the house in the year 2019 and the present application had been filed by the petitioner on 04.05.2023 after much delay and it was only to delay the execution proceedings further that the present application had been filed. Accordingly, costs of Rs.3000/- were also imposed while dismissing the present application.

9. From the abovesaid fact, it is apparent that the respondent-plaintiff, after passing of the decree in his favour in the year 2013, has been running from pillar to post to get the same executed and it is in the said background that the Additional Civil Judge (Senior Division), Dhuri had passed the specific directions for execution of the said decree and had also directed the SDM to look into the matter personally and ensure compliance

thereof without delay. The impugned order passed on 29.08.2024 by the Additional Civil Judge (Senior Division), Dhuri is in accordance with law and calls for no interference and the revision petition being meritless deserves to be dismissed. The sole argument raised by the petitioner to challenge the same also deserves to be rejected.

10. Keeping in view the abovesaid facts and circumstances, the impugned order dated 29.08.2024 being in accordance with law, deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

30.09.2024

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No