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

1. CR-7189-2023 (O&M)  
Date of decision: 09.08.2024

Baldev Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

2. CR-7851-2023 (O&M)  
Date of decision: 09.08.2024

Gram Panchayat, Village Phuglana

...Petitioner

Versus

Baldev Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Chetan Mittal, Sr. Advocate with  
Mr. Tejeshwar singh, Advocate and  
Ms. Sehej Sandhawalia, Advocate for the petitioners  
(In CR-7189-2023)

Mr. Siddharth Sandhu, AAG, Punjab.

Mr. Bhupinder Banga, Advocate  
for the Gram Panchayat, Village Phuglana.

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**VIKAS BAHL, J. (ORAL)**

1. The present order would dispose of two revision petitions  
bearing CR Nos.7189 and 7851 of 2023 since in both the revision petitions,



common order dated 06.11.2023 has been challenged. CR-7189-2023 has been filed by the Decree Holders and CR-7851-2023 has been filed by Judgment Debtor No.4. With the consent of learned counsel for the parties, CR-7189-2023 has been taken as the lead case.

2. The petitioners in CR-7189-2023 (hereinafter to be called as “the plaintiffs”) had filed a suit for permanent injunction restraining the defendants from throwing dirty water of Village Phuglana, Tehsil and District Hoshiarpur in the land detailed and described in the suit. The details of the said land as reflected in Annexure P-1, which is judgment and decree dated 05.07.2018, are reproduced hereinbelow:-

*“Suit for permanent injunction restraining the defendants from throwing dirty water of Village Phuglana, Tehsil and District Hoshiarpur in the land detailed and described below:*

- (a) Land measuring OK-15M contained in Khewat No.224. Khatauni No.247, Rect. No.77, Khasra No.6/1 (2-15),*
- (b) Land measuring 7K-18M contained in Khewat No.220, Khatauni No.243, Rect. No.78, Khasra No.10 (7-18),*
- (c) Land measuring 15K-16M contained in Khewat No.221 Khatauni No.244, Rect. No.78, Khasra No.8 (7-16), 9 (0-0)*
- (d) Land measuring 16K-0M contained in Khewat No.220/216 Khatauni No.243, Rect. No.77, Khasra No.7(8-0), 14 (8-0),*
- (e) Land measuring 13K-10M contained in Khewat No.224/220, Khatauni No.247, Rect. No. 77, Khasra No.6/2/2 (0-4), 6/3 (5-6), Rect No.87, Khasra No.15 (8-0), situated in Hadbast No.274 of Village Phuglana, Tehsil and District Hoshiarpur, as per entries in Jamabandi for the year 2011-12 and from diminishing the value and utility of the land of plaintiff and defendants be further directed to make appropriate and proper arrangement for discharge of dirty*



*water of the Village.”*

3. The Civil Judge (Senior Division), Hoshiarpur vide judgment dated 05.07.2018, had decreed the said suit and restrained the defendants from throwing dirty water of the Village through the Nala adjoining to the land of the plaintiffs and also for a mandatory injunction directing the defendants to make appropriate and proper arrangements for the discharge of dirty and rainy water of the Village. Relevant part of the said judgment dated 05.07.2018 is reproduced hereinbelow:-

**“ISSUE No.6 (RELIEF):**

*19. As an offshoot of the findings returned on issues above, the present suit filed by the plaintiffs succeeds and the same stands decreed for permanent injunction restraining the defendants from throwing dirty water of Village through the Nala adjoining to the land of the plaintiffs and also for mandatory injunction directing the defendants to make appropriate and proper arrangement for discharge of dirty and rainy water of the Village. Decree-sheet be prepared. File be consigned to the record room after due compilation within time prescribed as per rules.*

*Pronounced in open court:*

*Sd/-*

*Dated: 5th July, 2018.*

*(Monica Sharma),*

*Civil Judge (Senior Division),*

*Hoshiarpur. (UID No.PB-0239)”*

4. The petitioners had moved an application under Order 21 Rule 32 CPC read with Section 151 CPC for enforcement of the judgment and decree dated 05.07.2018. The Civil Judge (Senior Division), Hoshiarpur vide impugned order dated 06.11.2023 had observed in para 10 that although, the J.Ds/respondents have stated that they have complied with the



judgment and decree dated 05.07.2018 but the actual position at the spot was different and that from the report of the Local Commissioner, it transpired that the dirty/waste water of the village Abadi was still stagnated on the land of the decree holders. It was further observed that there is a high risk of spreading of disease at the spot, due to dirty/waste water and other waste material lying in the pond. It was also observed that, from the photographs placed on record, the position was worst and dirty water was continuously flowing into the land of the decree holders, due to which they are suffering a lot. Para 10 of the said order is reproduced hereinbelow:-

*“10. From the above report of the Local Commissioner independently called by this court, one thing is clear that although the J.Ds/respondents are stating that they have complied with the judgment and decree dated 05.07.2018 and have completed the development work as per Thapar Model and now no waste and dirty water of the village fall in the land of applicants, however, the actual position at the spot is different. From the report of the Local Commissioner it transpires that the dirty/waste water of the village Abadi still stagnate in the land of the decree holders. Drain pipes are also there, which open in the Naala, vide which the dirty/waste water is still going into the land of the decree holders. From the photographs proved on record as Ex.A1 to Ex.A12, it is clear that still dirty/waste water used to stagnate in the property in question and the water is going through the drains directly into the pond, without passing through the screening chambers. In the considered opinion of the court there is every chance of spreading of disease at the spot, due to dirty/waste water and other waste material lying in the pond. Thus, the court is convinced with the report of Local Commissioner that the mechanism (Thapar Model) adopted and installed by the*



*respondents is not useful in order to drain out the dirty water from the land of the decree holders. The photographs placed on record as Ex.A1 to Ex.A12 shows the actual position at the spot, as per which the position is worst and dirty water is regularly falling into the land of the decree holders, due to which they are suffering a lot. Thus, from the above report it is quite clear that applicants/D.H. are still suffering a lot as needful, as per judgment and decree dated 05.07.2018 has not been done by the respondents/J.Ds”*

5. The Civil Judge (Senior Division), Hoshiarpur in spite of the aforementioned observations/findings had stated that the Court does not deem it appropriate to take stringent action against the respondents/J.Ds and gave further directions to the Judgment Debtors to comply with the judgment and decree dated 05.07.2018 and make proper and appropriate arrangements for the discharge of dirty/waste and rainy water of the village within a period of two months, so that, the same does not fall in the land of the decree holders and that in case the Judgment Debtors fails to comply with the said directions then it would be open to the decree holders to avail any remedy against the Judgment Debtors for non compliance of the said order.

6. A perusal of the order dated 06.11.2023 would show that in spite of the fact that the judgment and decree which had attained finality had not been implemented by the Judgment Debtors yet the Civil Judge (Senior Division) chose to dispose of the execution proceedings, which is not in accordance with law and thus, the impugned order deserves to be set aside on the said aspect. A perusal of Order 21 Rule 32 CPC would show that where the party against whom a decree including a decree for an



injunction has been passed and the said party has failed to obey it, that decree can be enforced by detaining him in civil imprisonment or by attaching his property or by both attachment and detention. The provision clearly provides as to in which manner the decree including injunction decree is to be enforced. Order 21 Rule 32 of CPC is reproduced hereinbelow:-

***“32. Decree for specific performance for restitution of conjugal rights, or for an injunction. - (1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced in the case of a decree for [restitution of conjugal rights](#) by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.***

*(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.*

*(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force for six months if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.*

*(4) Where the judgment-debtor has obeyed the decree and paid*



*all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or if made has been refused, the attachment shall cease.*

*(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.*

*Explanation – For the removal of doubts, it is hereby declared that the expression “the act required to be done” covers prohibitory as well as mandatory injunctions.”*

7. The impugned order is not in consonance with the said provision. It was incumbent upon the Court to have kept the application under Order 21 Rule 32 CPC pending till the time it was satisfied that the judgment dated 05.07.2018 was complied with.

8. Learned Senior Counsel for the petitioners in CR-7189-2023 has submitted that even till date, judgment and decree dated 05.07.2018 has not been complied with.

9. On the other hand, learned State Counsel as well as learned counsel appearing on behalf of Gram Panchayat have submitted that in case the said application is kept pending, they would file an appropriate status report indicating the latest position and would make an earnest endeavour to enforce the judgment and decree dated 05.07.2018.



10. Keeping in view the abovesaid facts and circumstances, the Revision Petition No.7189 of 2023 is partly allowed and the order dated 06.11.2023 (Annexure P-10) is partly set aside and a direction is given to the Civil Judge (Senior Division), Hoshiarpur to reconsider the application, filed under Order 21 Rule 32 read with Section 151 CPC, filed by the petitioners/decreed holders and to take necessary steps to comply with the judgment and decree dated 05.07.2018 and to proceed in accordance with Order 21 Rule 32 read with Section 151 CPC as expeditiously as possible.

11. Learned counsel for the petitioner in CR-7851-2023 has submitted that in view of the said directions, no separate directions are required to be passed in CR-7851-2023 and the same be also disposed of in the same terms.

12. Accordingly, CR-7851-2023 is disposed of in the same terms as passed in CR-7189-2023.

13. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**09.08.2024**  
*Pawan*

**(VIKAS BAHL)**  
**JUDGE**

**Whether speaking/reasoned:-**                      **Yes/No**

**Whether reportable:-**                                      **Yes/No**