

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

2025:PHHC:002797



117

CR-15-2025 (O&M)

Date of decision: 08.01.2025

Sardar Singh (since deceased) thorough LRs

...Petitioner(s).

Versus

Ranbir and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. D.V. Sharma, Sr. Advocate with
Mr. Gautam Kaile, Advocate
for the petitioners.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 19.02.2024 (Annexure P-18) passed in Exe.-05-2021, dismissing the objections and order dated 03.01.2025 (Annexure P-19) issuing warrants of possession by learned Executing Court.

2. Relevant facts material for adjudication are that Exe No.05-2021 was pending in the Court of Learned Additional Civil Judge (Sr. Divn.) Kharkhoda, District Sonapat for executing the judgment and decree dated 22.04.2011 passed by Court of learned Civil Judge (Jr. Divn.) Kharkhoda. Appeal preferred against the said judgment and decree dated 22.04.2011 was dismissed by the Court of learned Additional District Judge, Sonapat, thereafter, RSA-3911-2012 filed before this Court was also dismissed vide order dated 04.03.2020. Then SLP No.37254-2024 filed

against judgment and order dated 04.03.2020 in RSA No.3911-2012 passed by this Court, was also dismissed on 09.09.2024. Thereafter RA-RS-8-2021 in RSA-3911-2012 was filed before this Court which was also dismissed vide order dated 18.05.2024 of this Court.

3. It has been alleged that the decree under execution has been obtained by concealment of vital documents to gain advantage of the other side and by playing fraud with the Court and such a decree is nullity and non est in the eyes of law and can be challenged in any Court even in collateral proceedings.

4. It has been alleged that fraud has been played by the decree holders on the Courts and a decree has been obtained by concealment of vital documents and playing fraud on 22.04.2011, which is clear from the sequence of events as mentioned in the revision petition. Then a detailed sequence of events of the fraud allegedly played has been given in the revision petition. It has been alleged that plaintiffs had concealed the decree dated 28.12.1960 in favour of Bharat Singh, predecessor-in-interest of the plaintiff, obtained a decree on 05.08.1975 in favour of dead person by concealing the death of Mange Ram from the Court of learned Senior Sub Judge, Sonapat which was nullity as it was in favour of the dead person. It has been alleged that death of the father was also concealed by mentioning that he died about 27/ 28 years ago whereas he had died 36 years back. The objections filed by JDs/ Objectors were dismissed by the Executing Court vide order dated 19.02.2024 and vide order dated 03.01.2025 of learned ACJ (Sr. Divn.) Kharkhoda, warrants of possession were ordered to be issued. Aggrieved against the aforesaid orders, the petitioner has knocked

the doors of this Court by way of filing the present revision petition.

5. Learned counsel for the revision petitioner has contended that decree dated 22.04.2011 is not executable as the same has been obtained by concealment and fraud and is a nullity. In this context learned counsel for the petitioner has relied upon judgment of Hon'ble Supreme Court in *S.P. Changalvaraya Naidu (Dead) by LRs. Vs. Jagannath (dead) by Lrs, 1994(1) R.R.R. 253; Smt. Badami (deceased) by her LRs Vs. Bhali, 2012(3) CTC 850* and judgment of this Court in *Ludhiana Improvement Trust and another Vs. Shaheed Bhagat Singh Coop House Building Society Ltd. And others, 2021(3) R.C.R. (Civil) 599*. While pointing out to the long sequence of events as given in the revision petition, he has contended that the predecessor of decree holder Mange Ram fraudulently obtained certificate of allotment of plot No.39/ 458 whereas by virtue of decree dated 28.12.1960 plot No.39/458 had already been allotted to Bharat Singh. Decree dated 05.08.1975 was obtained against a dead person as Mange Ram had died on 31.08.1973 and decree was got executed from the learned Court on 05.08.1975. While referring to above said case law relied upon by him, he has contended that vide impugned order dated 19.02.2024, it has been wrongly observed by learned Executing Court that objections taken by the objectors are regarding the merits of the case and Executing Court cannot go behind the decree and has to execute the same on its face value.

6. I have heard learned counsel for the petitioners and have gone through the relevant record.

7. Perusal of the present revision petition reveals that it has been

mentioned in the head note of the revision petition that it has been filed for setting aside orders dated 19.02.2024 (Annexure P18) passed in Exe-05-2021 dismissing the objections and order dated 03.01.2025 (Annexure P19) issuing of warrants of possession by learned Executing Court.

8. In para No.35 of the said petition also it has been mentioned that it is against order dated 19.02.2024 (Annexure P18) passed in Exe.05-2021 dismissing the objections. Petitioner No.2 has already filed the appeal against aforesaid order dated 19.02.2024 before learned Additional District Judge, Sonapat and said Court in view of the facts mentioned in the appeal has summoned LCR for 09.04.2025. It has also been mentioned therein that inspite of it being noticed by learned Executing Court the warrants of possession for execution of the judgment and decree dated 22.04.2011 have been issued because learned Additional District Judge, Sonapat did not stay the execution proceedings.

9. Thus, order dated 19.02.2024, which has been challenged through the present revision petition is already pending adjudication as miscellaneous Civil Appeal before the Court of learned Additional District Judge, Sonapat. When the matter is still pending adjudication before the aforesaid Court then the present revision petition is not maintainable at this stage. Moreover, any observation made by this Court will reflect upon the adjudication by the said Court. Thus, at this stage no interference is called by this Court in the orders dated 19.02.2024 and 03.01.2025 while exercising the revisional jurisdiction.

10. The present revision petition being bereft of any merits stands dismissed.

11. However, Court of learned Additional District Judge, Sonapat is directed to dispose of said miscellaneous Civil Appeal pending before him challenging order dated 19.02.2024 expeditiously, preferably within one month, from date of receipt of this order.

12. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

08.01.2025

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