

**308-2****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CR-371-2018 (O&M)****Date of Decision : 10.11.2025**

Harkimat Singh @ Harkirat Singh

... Petitioner(s)

Versus

Amarjit Kaur & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. P.K. Garg, Advocate for the petitioner.

Mr. Brijeshwar Vashist, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India for challenging the impugned order dated 02.08.2017 whereby the objections filed by the petitioner and respondent No.2(b) in the execution petition have been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent No.1 herein filed a suit for maintenance and permanent injunction against her father-in-law, namely, Puran Singh (respondent No.2 herein). Vide judgment and decree dated 27.05.2010 the suit was dismissed. The appeal preferred by Amarjit Kaur (plaintiff-respondent No.1 herein) was allowed vide judgment and decree dated 04.02.2012. Puran Singh died on 26.01.2013 and after his death the DH-respondent No.1 filed an execution petition against the legal representatives of Puran Singh who is stated to have died on 26.01.2013. Objections were filed by the petitioner and respondent No.2(b) herein. It is to be noted here that there was a Will alleged to have been

executed by Puran Singh on 10.05.2010 in favour of the petitioner and respondent 2(b) herein. Vide the impugned order dated 02.08.2017 the objections were dismissed and the property which was attached vide order dated 08.12.2012 was directed to be put on sale. Aggrieved by the same the present revision petition has been filed.

3. Learned counsel for the petitioner has pointed out that the Will dated 10.05.2010 was challenged by Amarjit Kaur and her third son – Jagmit Singh [respondent Nos.1 and 2(a) herein] by filing a civil suit being CS No.1122 of 16.12.2017 and the said suit had been partly decreed vide judgment and decree dated 09.10.2024 in their favour declaring the Will dated 10.05.2010 as null and void as well as the mutation entered on the basis of the Will was set aside. All the parties to the *lis* i.e. Amarjit Kaur (DH-respondent No.1 herein) and Jagmit Singh [respondent No.2(a)] alongwith Harkimat Singh (petitioner herein) and Darshan Singh [respondent No.2(b)] have been held to be co-owners to the extent of 1/20th share out of the suit property. A copy of the judgment dated 09.10.2024 has been handed over by the learned counsel for the petitioner during the course of the arguments. Being a downloaded copy of the judgment passed by the Trial Court, this Court can always take judicial notice of the same. A copy of the order dated 08.02.2018 has also been brought to the notice of this Court passed in the execution petition whereby the execution petition filed by DH-respondent No.1 herein was dismissed as withdrawn and she was granted permission to file a fresh execution from the same stage and the attachment of the property of JD-petitioner was ordered to be kept intact.

4. *Per contra* learned counsel for respondent No.1 would contend that since the petitioner and respondent No.2(b) were in possession of the suit

property and they had given the property on *chakota*, hence, it would be deemed that they had inherited the property, therefore, the objections filed by them have rightly been dismissed. Learned counsel has further objected to the learned counsel for the petitioner handing over a copy of the judgment dated 09.10.2024 in Court stating that the same has not been brought on the record. **Learned counsel has pointed out that a fresh execution petition has been filed.**

5. I have heard the learned counsel for the parties.

6. In the present case, admittedly, the judgment and decree for maintenance was passed against Puran Singh (respondent No.2 herein). Puran Singh died on 26.01.2013 and the execution was filed against the legal representatives of Puran Singh. The Will was alleged to have been executed by Puran Singh in favour of the petitioner and respondent No.2(b) herein on 10.05.2010. Admittedly, Civil Suit No.1122 of 16.12.2017 was filed by none other than DH-respondent No.1 – Amarjit Kaur and her third son – Jagmit Singh [respondent No.2(a)] for declaration and permanent injunction which suit had been partly decreed vide judgment and decree dated 09.10.2024 setting aside the Will dated 10.05.2010 in favour of the petitioner and respondent No.2(b) and all the parties to the *lis* i.e. Amarjit Kaur (DH-respondent No.1 herein) and Jagmit Singh [respondent No.2(a)] alongwith Harkimat Singh (petitioner herein) and Darshan Singh [respondent No.2(b)] have been held to be co-owners of the property. Once the suit for declaration has been decreed holding Jagmit Singh, Amarjit Kaur, Harkimat Singh and Darshan Singh all to be co-owners of the property which judgment and decree stands as of date, the Executing Court would need to decide the objections after framing the relevant issues and after going through the evidence which would be brought on the record by the parties. Merely because the petitioner

and respondent No.2(b) were in possession of the suit property, it cannot be held that they would be treated as the only legal representatives especially in view of the fact that Amarjit Kaur and Jagmit Singh [respondent Nos.1 and 2(a) herein] themselves had challenged the Will dated 10.05.2010 and have infact got a decree in their favour dated 09.10.2024 declaring the Will dated 10.05.2010 as null and void.

7. The argument of the learned counsel for the respondent No.1 that since the petitioner and respondent No.2(b) were in possession and hence it would be incumbent on them to satisfy the decree, cannot be accepted. Merely because of a person is in possession of the suit property, he/she cannot be held liable to satisfy the decree.

9. In view of the above, the present revision petition is allowed and the impugned order dated 02.08.2017 stands set aside. The Executing Court shall reconsider the objections and decide the same in accordance with law after framing the relevant issues and permitting the parties to lead their evidence.

10. Disposed off accordingly. Pending applications, if any, also stand disposed off.

11. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10.11.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO