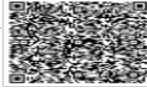
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****127****CR-608-2025 (O&M)****Date of decision: 03.02.2025****Ram Ratan Mittal****...Petitioner(s)****Vs.****Improvement Trust, Barnala and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Gaurav Sharma, Advocate for the petitioner.

*********NIDHI GUPTA, J.**

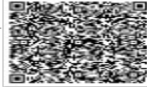
By way of the present civil revision petition filed under Article 227 of the Constitution of India, the plaintiff/decreed holder is seeking setting aside of the order dated 19.02.2024 (Annexure P-1) passed by learned Additional Civil Judge (SD), Barnala, in Exe. No. 71 dated 2017, whereby the application filed by the defendant/judgment debtor/respondent No.1 herein for compliance of decree dated 01.11.2013, has been allowed.

2. Brief facts of the case are that the petitioner/plaintiff/decreed holder alongwith performa respondents No. 5 to 10 herein had filed a suit dated 13.04.2006 for perpetual injunction restraining the defendant No.1/respondent No.1 herein-Improvement Trust, Barnala from effecting any alteration in the colony named Shaheed Sewa Singh Thikriwala Nagar developed by the defendant-Trust as 22 Acre Scheme. The said suit was decreed vide judgment and decree dated 01.11.2013 (Annexure P-4).



Against the said judgment and decree dated 01.11.2013 (Annexure P-4), two separate appeals had been preferred by the defendants against the plaintiffs, which were dismissed vide judgment and decree dated 19.10.2016 (Annexure P-5). Subsequently, the defendant No.1/respondent No.1-Trust filed an application dated 29.11.2023 (Annexure P-2) for compliance of the decree before the learned Executing Court, Barnala. Reply dated 11.12.2023 (Annexure P-3) was filed by the petitioner to the said application. Vide the impugned order dated 19.02.2024 (Annexure P-1), the said application of the defendant No.1/judgment debtor has been allowed by the Id. Executing Court.

3. Learned counsel for the petitioner submits that the impugned order dated 19.02.2024 (Annexure P-1) deserves to be set aside as the learned Executing Court, Barnala has failed to appreciate that the defendant No.1-Improvement Trust with a malafide intention and with collusion of the other judgment debtors, has misled the Executing Court, as well as the Appellate Court. It is submitted that as per the decree dated 19.10.2016 (Annexure P-5), the judgment debtors or their predecessor-in-interest were not granted permission to open any gate in Shaheed Sewa Singh Thikriwala Nagar developed by defendant-Trust (22 Acre Scheme), as the same amounts to alteration of the scheme. Thus, the gate now opened by the defendants in collusion with the Trust, is liable to be closed. The judgment debtors are hands in glove with one another and are playing hide and seek with the Court to defeat the right of the decree holder. It is submitted that if the decree is not executed in entirety, the same will cause



prejudice to the petitioner/decreed holder. It is accordingly prayed that the impugned order dated 19.02.2024 (Annexure P-1) be set aside.

3. No other argument is raised on behalf of the petitioner.

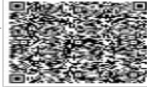
4. I have heard learned counsel for the petitioner and perused the case file in great detail.

5. Perusal of the record of the case shows that the suit of the plaintiffs/decreed holders was decreed by the learned trial Court vide judgment and decree dated 01.11.2013 (Annexure P-4) in the following manner: -

“It is ordered that the suit of the plaintiffs succeeds and same is hereby decreed and defendant no.1 is directed to re-erect the wall within three months from the date of order and if defendant no.1 will fail to do so, the plaintiffs are at liberty to re-erect the wall, which was originally in the master plan after leaving passage because resolution qua this fact has already been accepted by the Punjab Govt and defendants have no right to interfere when the defendant no.1 or the plaintiffs will re-erect the wall as per original master plan and accordingly, the defendants are restrained from stopping the plaintiffs and defendant no.1 from re-erecting the wall by the plaintiffs.”

6. In the appeals filed by the defendants, the said decree was modified by the Id. Additional District, Barnala in the following manner: -

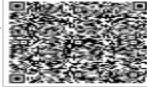
“27. In order to bring uniformity and certainty in the work of defendant no.1 to allow passage to defendants no.2 to 4, defendant no.1 is directed to first specify the width of the passage which was originally left for the use of Rajesh Kumar as per his application Ex.D1 and deposit of charges vide receipt



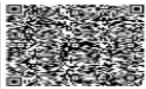
Ex.D6 and then re-erect the remaining portion of the boundary wall demolished by the defendants no. 2 to 4 for opening of their hotel/restaurant constructed in the plot purchased by them from Rajesh Kumar and Rajinder Kumar vide sale deed Ex.D10. If the defendant no.1 failed to re-erect the wall within three months from the receipt of copy of this order, in that case plaintiffs are at liberty to erect the wall in its original condition as is mentioned in the original lay out plan prepared by the defendant no.1 after leaving the passage of the width to be determined by the defendant no.1, but under the garb of passage, the entire wall of Improvement Trust adjoining to the property of defendants no.2 to 4 purchased by them vide sale deed Ex.D10 cannot be removed. So with these observations, there is no merit in these appeals and hence both these appeals stand dismissed. Trial court file along with copy of this judgment be sent back. Appeal file be consigned to the record room.”

7. The learned Executing Court, Barnala has made the following observations vide the impugned order dated 19.02.2024 (Annexure P-1):-

“3. In order to enforce the Judgment dated 19.10.2016 present execution was filed by the decree holders. As per Judgment dated 19.10.2016, JD no.1 Improvement Trust was directed to first specify the width of the passage which was originally left for the use of Rajesh Kumar as per his application Ex.D1 and deposit of charges vide receipt Ex.D6. It has been submitted by JD no.1 through present application that the total front of the purchasers of the plot from Rajesh Kumar was having measurement of 65 feet and the Improvement Trust, Barnala had already built booths adjoining to said plot to the extent of 23 feet and in the remaining 42



feet front, the purchasers have constructed the walls up to first floor level. Thus, as per JD no.1, the first requirement as set out in Judgment dated 19.10.2016 has been met with. This court has also gone through judicial file and has found that as per Ex.D1 and Ex.D6 (so exhibited in the proceedings of the main civil suit), the report made by JD no.1 is found to be correct. In written reply to this application, the decree holders have not denied specifically this fact rather they have only levelled allegations regarding connivance of JD no.1 and other Judgment Debtors. The decree holders have not explained as to how the measurement made by JD no.1 is not correct. Further, as per Judgment dated 19.10.2016, the JD no.1 was directed to re-erect the remaining portion of the boundary wall demolished by the defendants no. 2 to 4 for opening of their hotel/restaurant constructed in the plot purchased by them from Rajesh Kumar and Rajinder Kumar vide sale deed Ex.D10. In compliance to said part of the decree, the JD no.1 has mentioned that the wall has been re-erected. The JD no.1 has also placed on record photographs to show that the wall has been re-erected leaving only the front gate of the building. Again to the mind of this court, the compliance has been correctly made by JD no.1 and the decree holders have not been able to specify as to how the compliance made by JD no.1 is not according to the Judgment and decree dated 19.10.2016. To the mind of this court, the compliance of Judgment dated 19.10.2016 has been correctly made by the JD no.1 which further results into satisfaction of the decree. Though, the decree holders have denied the compliance in their written reply but they have not been able to substantiate as to how and on what points the compliance has not been properly made. Accordingly, the execution in hand stands satisfied and



file is ordered to be consigned to the Record Room, Barnala after due compilation.”

8. Even before this Court, the petitioner is unable to demonstrate as to in what manner has the judgment debtor not complied with the decree. Repeated allegations of connivance between the defendants have been made, without substantiating the same. As such, I find no infirmity in the impugned order dated 19.02.2024 (Annexure P-1).
9. The present civil revision petition is hereby **dismissed**.
10. Pending application, if any, stands disposed of.

03.02.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No