



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(124)

CR No. 997 of 2025

Date of Decision: 17.02.2025

Dhani Ram

...Petitioner

Vs

Phool Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Monika Tanwar, Advocate
for petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition has been preferred under Article 227 of the Constitution of India for issuance of a direction to the executing Court to decide the execution petition bearing No. EXE No. 213 of 2017 in a time bound manner.

2. The petitioner-plaintiff (Dhani Ram) filed a suit for partition and injunction and vide judgment dated 05.08.2013, final decree of partition by way of metes and bounds was passed. Execution application was filed in May 2017 and continues to be pending till today.

3. Learned counsel for the petitioner submits that on account of the execution petition not having been decided, the interests of the petitioner have been prejudiced. She submits that keeping in view the directions of the Supreme Court of India in the case of *Rahul S. Shah Vs. Jinendra Kumar Gandhi and others, 2021 (2) RCR (Civil) 854*, the executing Courts are bound to dispose the execution petitions within a period of six months and in case of failure to do so, adequate reasons have to be recorded. Learned

counsel submits that the directions of the Supreme Court of India have not been complied with in the present case.

4. I have heard the submissions made by learned counsel for the petitioner.

5. There would be no necessity of issuing notice to the respondents, for in view of the nature of the order that is proposed to be passed, no prejudice would be caused to him

6. Admittedly, final decree for partition by metes and bounds was passed as far back as on 05.08.2013 and execution petition was filed on 22.05.2017.

7. I have perused the interlocutory orders produced by learned counsel for the petitioner and find that delaying tactics are being adopted by the judgment debtors as a result of which the execution petition has not been decided. In the case of ***Rahul S Shah Vs. Jinendra Kumar Gandhi and others (supra)***, the Supreme Court of India had issued certain directions with regard to disposal of execution petitions:-

“All Courts dealing with suits and execution proceedings shall mandatorily follow the below-mentioned directions:

1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order X in relation to third

2. party interest and further exercise the power under Order XI Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.

3. In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.

4. After examination of parties under Order X or production of documents under Order XI or receipt of commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

5. Under Order XL Rule 1 of CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.

6. The Court must, before passing the decree, pertaining to

7. delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

8. In a money suit, the Court must invariably resort to Order XXI Rule 11, ensuring immediate execution of decree for payment of money on oral application.

9. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree.

10. The Court exercising jurisdiction under Section 47 or under Order XXI of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such applications) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

11. The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases

where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

12. The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A.

13. Under section 60 of CPC the term "...in name of the judgment-debtor or by another person in trust for him or on his behalf" should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.

14. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

15. The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.

16. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the Court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the Executing Courts.

43. We further direct all the High Courts to reconsider and update all the Rules relating to Execution of Decrees, made under exercise of its powers under Article 227 of the Constitution of India and Section 122 of CPC, within one year of the date of this Order. The High Courts must ensure that

the Rules are in consonance with CPC and the above directions, with an endeavour to expedite the process of execution with the use of Information Technology tools. Until such time these Rules are brought into existence, the above directions shall remain enforceable.”

8. A perusal of the aforesaid directions shows that the executing Courts are obligated and under a duty to dispose of execution petitions within a period of six months from the date of filing. It is also not unknown that judgment debtors try to delay the proceedings by filing one application or the other. It would, however, be for the executing Court to deal with such tactics and comply with the directions issued by the Supreme Court of India in letter and spirit.

In view of the above, the present petition is disposed of with a direction to the Court concerned to dispose of the execution petition as expeditiously as possible but not later than two months from today.

(VIKRAM AGGARWAL)
JUDGE

February 17, 2025

Rekha

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