



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

CR-4150-2019 (O&M)

Date of Decision: December 11, 2025

Telu Ram and others

...Petitioners

Versus

Gian Singh through LRs and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ravinder Malik, Advocate
for the petitioners.

Mr.Vishwanjeet, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the orders dated 04.05.2019 as well as 18.05.2019 passed by learned trial Court, whereby, the objections filed by the petitioners in the execution petition, were dismissed.

In pursuance of the notice issued, the respondent made appearance through counsel.

Counsel for the parties heard.

The facts germane, to be noticed, are as follows:-

That, initially, petitioner-Telu Ram and his sons (plaintiffs) had filed a suit for permanent injunction against the respondents, to restrain them from

interfering into peaceful possession of the petitioners-plaintiffs over the suit land measuring 2 Kanals 4 Marlas comprised in Khewat No.21/21, Khatoni No.25, Rect. No.8, Killa No.19/16(2-4), and also about petitioner-plaintiffs No.2 and 3, to be owners in possession of the land measuring 2 Kanals 8 Marlas, comprised in Khewat No.33/32, Khatoni No.45, Rect. No.8, Killa No.22/2 (2-8), both situated in village Lathron, Tehsil Nilokheri, District Karnal.

The respondents-defendants made appearance and also filed counter claim and sought permanent injunction to restrain the petitioners-plaintiffs from encroaching upon the land of counter-claimant-defendant No.1, comprised in Rect. No.8, Killa No.19/6 (0-6) and 19/9 (0-2), situated in the same village.

On appraisal of the evidence, brought on record, learned trial Court, in view of the undertaking given by the respondents-defendants, about not to interfere in the peaceful possession of the petitioners-plaintiffs, over the suit land, had decreed the suit for permanent injunction of the plaintiffs. Likewise, also while considering the revenue record, which reflected the possession of the defendants over the suit property, which was admitted by the plaintiffs, had also decreed the counter claim and restrained the rival parties from encroaching upon the land of each other.

Thereupon, the petition under Order 21 Rule 32 read with Section 151 CPC was filed by Gian Singh, through his legal representatives and Satish, who were the defendants-counter-claimants in the original suit before the trial Court. In the said petition, it was asserted that the plaintiffs were restrained from encroaching the land of the counter-claimants,

comprised of Killa No.19/6 (0-6) and 19/9 (0-2). However, fortnight back, they had actually encroached upon some land of the aforesaid khasra numbers, as shown in the site plan, illegally and forcibly, thereby, making violation of the judgment and decree passed by the trial Court. In the light of the same, a prayer was made for issuance of directions to remove the encroachment, as shown in the red colour in the site plan from Khasra No.19/6 and 19/9, belonging to the decree holder and further also, in the eventuality of failing to do so, also that the JDs be sent to the civil prison, for the violation of the judgment and decree.

In pursuance of the notice, the present petitioners-plaintiffs (who were JDs in the execution) had made appearance and filed objections, thereby, questioning the maintainability of the petitioner and had also taken various preliminary objections. In fact, it was asserted that it was JDs/plaintiffs, who are owners in possession of the land measuring 6 Kanal 4 Marla and also 2 Kanal 8 Marla, as detailed in the civil suit. It was further asserted that on the eastern side of Killa No.19/16, which formed the basis of the suit, there is panchayati land and the defendants have collected material to raise construction on killa no.19/6 and 19/9 and they are trying to encroach upon the land pertaining to Khasra No.19/16 and 22/2, belonging to the plaintiffs-JDS.

These two killa numbers, belong to the plaintiffs-JDs, whereas, the site plan annexed by the decree holder, is of killa No.19/16, which is fully owned and possessed by the plaintiffs-JDs and on this account, it was stated that the defendants have tried to encroach upon the land of the JDs, under the garb of said judgment and decree. Moreover, the decree-holder-

defendants had taken the alleged possession of the alleged land from Barkat Ram s/o Wadhawan Ram, resident of village Lathron and therefore, they cannot exceed their possession of more than the previous encroacher namely Barkat Ram, which is a panchyati land and therefore, they cannot exceed their possession over the land owned and possessed by the plaintiffs-JDs.

However, after seeking reply and after hearing counsel for the parties, the objection petition was dismissed and the petitioners-JDs were restrained from interfering into peaceful possession of the decree holder, on account of decree having passed, in favour of the counter-claimants and furthermore, a direction was given to the decree holder-counter claimants to file the list of properties of the JDs.

Being aggrieved, the petitioners (JDs before the executing Court) have filed the revision petition in hand.

Considering the judgment under execution and also the objections, one thing is evident that the petitioners-JDs have raised the plea that under the garb of the judgment and decree dated 20.11.2017, an attempt is made to encroach upon the land of panchayat. As evident from the decree under execution, the respondents-counter-claimants had asserted their possession, over the land, which they allegedly purchased by virtue of an agreement from Barkat Ram. Therefore, in any case, they cannot exceed the extent of land, beyond the possession of the same with Barkat Ram, which was sold to them. However, in the impugned order, learned Executing Court, has though, made reference to the detail of the land, owned and possessed by the rival parties and also about the decretal of the suit of the plaintiffs as well as of the counter-claimants, but however, simply making

these observations, had stated that since the decree was passed and the counter-claim was decided, in favour of the decree holder, therefore, the JDs are restrained from interfering into the peaceful possession of the decree holder and precisely, on this account, the objections filed by the JDs were dismissed.

However, the aforesaid order is palpably erroneous. No observations, as such, has come forth, about the encroachment having made, at the instance of the petitioners/JDs and the extent thereof. As already observed aforesaid, it is evident that in the execution petition, there is mention made about the extent of encroachment allegedly made to be depicted in the site plan, but however, no reference, as such, has been made to the site plan. Even, in the objection petition, the petitioners-JDs had taken a plea about the land depicted in the site plan to be the panchayati land, which is not in possession of the respondents-counter-claimants. However, this plea, as such, has not been considered by the Executing Court, while passing the impugned order.

It was required, on the part of the Executing Court to have taken into consideration the site plan and reach the conclusion about the encroachment having made and also, with regard to the extent of encroachment, so made and with regard to the detail of the land, upon which, the encroachment has been made and only thereafter, ought to have decided the objection petition. But however, the same as such, has not been done. In the given circumstances, the impugned order do call for interference, by way of exercise of revisional jurisdiction by this Court.

Hence, the revision petition is hereby accepted and the

impugned order is set aside and consequently, the Executing Court is hereby directed to decide the objections afresh, in the light of the observations made aforesaid. It should record its satisfaction, with regard to the encroachment made and the extent thereof and the description of the land, over which the encroachment has been allegedly made. To facilitate recording of such satisfaction, learned Executing Court has an option to record evidence, in the fitness of circumstances and thereupon, decide the objection petition afresh.

December 11, 2025	(ARCHANA PURI)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	Yes/No