



110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA-3-2018 (O&M)

Date of decision : 24.04.2025

Gram Panchayat Pipli

...Appellant

Vs.

Smt. Janak Sharma and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagdish Manchanda, Advocate
Ms. Devyanshi, Advocate
Mr. Nischal Chetanya Manchanda, Advocate
Mr. Yogit Mehta, Advocate
for the appellant.

Mr. Amit Arora, Advocate
for respondent No.1.

Mr. Kirandeep Kaur, Advocate for
Mr. Kamaldip Singh Sidhu, Advocate
for the respondents No. 3 and 4.

ANIL KSHETARPAL, J. (Oral)

I. Brief facts:-

1. This execution second appeal was filed by the Gram Panchayat, Pipli, which has now been substituted with the Municipal Council, Thanesar.
2. Smt. Janak Sharma filed a suit for declaration with consequential relief of mandatory and permanent injunction against the following defendants:-

"1. Joginder Balmiki son of Deotia Ram Balmiki, Balmiki Mohalla, Pipli, President, Sheetla Mata Mandir, avam khera Sabha, Pipli, Tehsil Thanesar, District Kurukshetra.



2. *Jagdish, Head Constable son of Des Raj, Bhagwan Nagar Colony, Pipli, Tehsil Thanesar, District Kurukshetra.*
3. *Manav Kalyan Sabha Pipli (Dharamshala) Pipli, through its President/Secretary/Manager, Pipli, Tehsil Thanesar, District Kurukshetra."*

3. This suit was decreed on 11.10.2007. The decree-holder filed an execution petition. Judgment Debtor No. 2, namely, Sh. Jagdish filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC) to implead the Gram Panchayat, Pipli as a party in the execution petition, which was dismissed on 09.11.2016.

4. Subsequently, the Gram Panchayat, Pipli filed an objection petition under Order XXI Rule 97 and 101 of the CPC claiming that the suit property is owned and possessed by the Gram Panchayat, Pipli and there is a Janhit Dharamshala. The building was constructed with the donation of public, Government grants and M.P. grants. There is also an office of Gram Panchayat, Pipli, consisting of rooms, meeting halls. In some of the rooms, veterinary hospital was also being run, which is now in a dilapidated condition. The suit property is located in the residential area of the village, which was a deep pond. Hence, the property was owned and possessed by the Gram Panchayat, Pipli. The Executing Court dismissed the objection petition on the ground that a previous application filed by Judgment Debtor No.2 was dismissed.

5. The Executing Court failed to decide the objection petition in accordance with Order XXI Rule 97 and 101 of the CPC. The objections filed by third parties are required to be decided like a suit. The First Appellate Court



also dismissed the appeal filed by the Gram Panchayat, Pipli.

II. Arguments:-

6. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

7. Learned counsel representing the appellant while highlighting the aforesaid facts submits that the Executing Court was required to grant opportunity to the Gram Panchayat, Pipli or Municipal Council to prove their case. He submits that the order passed on an application filed by Judgment Debtor No. 2 shall not be binding on the Gram Panchayat.

8. Mr. Amit Arora, learned counsel representing the decree-holder while relying upon the judgment passed by the Supreme Court in '**Rahul S. Shah vs Jitendra Kumar Gandhi & Ors', 2021 AIR (Supreme Court) 2161**' submits that inordinate delay in execution of decree should be avoided.

III. Analysis ad Discussion:-

9. This Court has considered the submissions made by the learned counsel representing the parties.

10. It is evident that the decree passed in favour of respondent No.1 (decree-holder) is a decree in *personam* and not *in rem*. It will not be binding upon Gram Panchayat, Pipli or Municipal Council because they were not claiming to be the representatives of the Judgment Debtors. As per Order XXI Rule 97 and 101 of the CPC, the objections filed by the third party are required to be decided like a suit. Such order is final between the parties. The Gram Panchayat is an elected body of the village. It is a constitutional authority as per the Constitution of India. Municipal Council is again a public authority,



which is required to manage the public property. The Gram Panchayat (now the Municipal Council) claims that there is a Dharamshala and office of the Gram Panchayat, Pipli. Hence, the appellant was required to be given an opportunity to prove their case. When the application of the Judgment Debtor No.2 to implead the Gram Panchayat was dismissed, the Panchayat was not a party. In the execution petition, a third party is not required to be impleaded as a party. The enabling power has been given to the third party to file the objection if it is adversely affected by a decree.

11. Consequently, the impugned orders passed by both the Courts below are set aside and the Executing Court is requested to cull out issues and permit the parties to lead evidence and thereafter, decide the matter.

12. Needless to observe that the Executing Court will make sincere endeavour for expeditious disposal of the execution petition preferably within a period of one year.

IV. Decision:-

13. The parties through their learned counsel are directed to appear before the First Appellate Court on 23.05.2025.

14. The appeal is disposed of.

15. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

24.04.2025
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No