



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

CR-3293-2021(O&M)

Date of Decision: May 15, 2025

Nagar Parishad Gohana

...Petitioner

Versus

Parmod Kumar Jain and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Parvinder Singh Chauhan, Advocate General, Haryana with
Mrs.Vasundhra Arya Bhandari and
Mr.Shubham Chauhan, Advocate
for the petitioner.

Mr.Raghav Goel, Advocate
for the respondents.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated
05.10.2021 passed by learned trial Court, whereby, the objections filed by
the petitioner against the execution of judgment and decree dated
12.10.2016, were dismissed.

Upon notice, the respondents made appearance through
counsel.

Heard.

The essential facts, to be noticed, are as herein given:-

That, initially, respondents-plaintiffs had filed a suit for mandatory
injunction for issuance of directions to the petitioner-defendant, to remove



encroachment on the land of OK-4/1/3 Marla, area of land of Khewat No.3164/3164, Khatoni No.3841, Killa No.1799, situated within the area of Gohana, Tehsil Gohana, District Sonapat, upon which, the defendant had paved out a road, as mentioned in the Local Commissioner report dated 02.01.2015 and be directed to hand-over the vacant possession of the same to the respondents-plaintiffs. The copy of the plaint is Annexure P-1.

The suit was decreed vide judgment and decree dated 12.10.2016, copy whereof is Annexures P-2 and P-3 and the defendant was directed to remove the encroachment, at the suit land, within a period of three months. The copy of the jamabandi is Annexure P-4.

However, the aforesaid judgment and decree was not challenged by the petitioner-defendant. Subsequently, execution petition was filed, copy whereof is Annexure P-5. During the pendency of the said execution petition, on 28.05.2019, Sh.Yogesh Kumar, Building Inspector, Gohana, had appeared before the Executing Court and got recorded his statement, vis-a-vis, purchase of the suit property, as per DC rate, after taking necessary permission from the Government and thereupon, learned Executing Court, had also recorded the statement of the respondent-plaintiff-Parmod, that he does not want to pursue the execution petition and the same be consigned to records. On the basis of the aforesaid statement, the execution petition was dismissed as withdrawn. The order passed by learned Executing Court, in verbatim, is reproduced herein:-

“Sh.Yogesh Kumar Building Inspector, Gohana made the statement that he has been authorised by Secretary MC vide letter Ex.DA to make the statement in this Court. The MC



would purchase the suit property as per DC rate after taking necessary permission from the Government. The DH also made the statement that keeping in view the statement of Yogesh Kumar, he does not want to proceed further with the present execution and it may be consigned to records. Heard. In view of the statement, present execution stands dismissed as withdrawn. File be consigned to record-room after due compliance”

Subsequently, the proceedings *inter se* department were initiated for seeking permission to acquire the land comprised in Khasra No.1799, which forms the subject matter of the decree in question. However, there was non-compliance of the statement earlier made and thereupon, execution petition was again filed, copy whereof, is Annexure P-9. In the said execution petition, the petitioner-defendant made appearance and through Executive Officer, Municipal Council, Gohana, objections were filed, wherein, it was asserted about the suit land, which forms the basis of the judgment and decree aforesaid, to be used for ingress and outgress of the general public.

In the objections, it was also asserted that the above-said case was decided in favour of the respondents-plaintiffs, due to the negligence of the earlier Advocate and he had not produced the true facts before the Hon’ble Court. General public at large, was using Khasra No.1799, for ingress and outgress from Meham road to Baroda Gohana, for the last about 100 years. After constitution of MC in Haryana, it was made pucca road by the Government of Haryana several times and the public at large, of City



Gohana, was/is having easementary right above the said Khasra No.1799.

As such, a prayer was made for the acceptance of the objections.

After hearing the parties, vide impugned order dated 05.10.2021, the aforesaid objections were dismissed by the Executing Court.

Being aggrieved, the petitioner-defendant has filed the present revision petition.

From the seriatim of facts, as detailed aforesaid, it is evident that the suit was filed, vis-a-vis, Khasra No.1799, which was decreed ex-parte. Thereafter, this judgment and decree was never challenged and has since attained finality. In the given circumstances, further it is also pertinent to mention that initially, the petitioner-defendant had made appearance and had given the undertaking through statement of Sh.Yogesh Kumar, Building Inspector that they shall seek necessary permission from the government for the purchase of the property at DC rates, upon which, the execution, at first instance was withdrawn.

In the given circumstances, when there was non-compliance, subsequent execution petition was rightly filed by the decree holder and therein, such objections are now raised that the suit land is used for ingress and outgress for the last about 100 years. If it be so, it was required, on the part of the petitioner-defendant, to have assailed the judgment and decree, under execution. No such steps were taken. Consequently, considering the statement earlier made, at the behest of petitioner-defendant, more particularly, when no appeal, was filed qua judgment and decree dated 12.10.2016, as such, the objections have been correctly dismissed by



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learned Executing Court and the impugned order do not warrant interference by this Court, while exercising revisional jurisdiction.

Hence, the present revision petition sans merit and is hereby dismissed.

May 15, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No