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

CR-4913-2025**Date of decision: 30.07.2025****KAKKA SINGH****..Petitioner****Versus****KESAR SINGH THROUGH HIS LRS****..Respondent****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Sanjeev Kumar Arora, Advocate
for the petitioner.

SUDEEPTI SHARMA, J. (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 14.07.2025 and 16.07.2025, passed by the Ld. Civil Judge (Junior Division), Guruharsahai, District Ferozepur, whereby the application filed by the petitioner for giving direction to judgment debtor to comply with the order dated 12.12.2024, and to confirm the sale and for issuance of warrant of possession of property of respondent/judgment debtor was dismissed.

2. Learned counsel for the petitioner contends that learned Civil Judge (Junior Division), Guruharsahai, District Ferozepur, without appreciating the fact that the petitioner is a Decree Holder has taken into consideration the share of other co-sharers, who are not even party to the suit filed by the petitioner.



3. I have heard learned counsel for the petitioner and have gone through the file of this case with his able assistance.

4. A perusal of the file shows that the petitioner filed a civil suit for possession of the land measuring 96 kanals and 16 marlas and for mesne profits for unauthorized use and occupation against the respondent herein, which was dismissed vide judgment and decree dated 17.05.2010, passed by learned Additional Civil Judge, (Senior Division), Ferozepur. The petitioner filed appeal against the judgment and decree dated 17.05.2010, which was allowed by the learned Additional District Judge, Ferozepur, and the suit of the petitioner was decreed in his favour vide judgment and decree dated 21.01.2011. Thereafter, the petitioner filed execution application and in the execution application itself, learned Civil Judge, (Junior Division), Guruharsahai, passed order dated 12.12.2024, which is reproduced as under:-

“Heard on the application u/o 21 Rule 90 CPC, filed by legal heirs of Kesar Singh, on the averments that Decree Holder Kakka Singh is having 1/6th share of mesne profits and the estimated amount is less than Rs.10 Lakh but the property of the objector has been put to sale for Rs.30 Lakhs whereas, actual value of same is more than Rs.2 Crores. On the other hand, respondent/ DH has submitted that the present execution is pending since long and none of the objector ever showed their willingness to satisfy the decree under execution. Even in the present application, no ground or procedure has been mentioned for the satisfaction of the decree under execution.

After hearing the Ld. Counsel for both the parties and perusal of case file minutely, this court is of the considered view that since the objector are ready to pay entire decretal amount in the court which will be sufficient to satisfy the decree under execution and the



entire exercise of putting the property in auction can be skipped and the matter can be disposed of expeditiously, therefore, in the interest of justice, present application is hereby allowed. However, it is made clear that objector must deposit the entire decretal amount in the court on or before next date of hearing i.e. 20.12.24. Any lapse on the part of objector will be deemed as his incapacity/incapability to satisfy the decree and the procedure will be resumed from the present stage. Application stands disposed of accordingly. Adjourned to 20.12.24 for depositing payment of decretal amount.

*Pronounced
12.12.2024*

*(Davinder Singh) PCS
Civil Judge, Junior Division
Guruharsahai (UID No.PB0575)”*

5. Thereafter, the petitioner filed an application for compliance of order dated 12.12.2024, which was dismissed by learned Civil Judge, (Junior Division), Guruharsahai vide order dated 14.07.2025.

6. The relevant para 4 of the order dated 14.07.2025, is reproduced as under:-

“4. After hearing the contention raised by learned counsel for parties and going through the case file. Perusal of the file reveals that decree holder alone is not entitled to receive the entire amount as there are other co-sharer present alongwith decree holder who have already received their share in this regard and they have suffered statement in the Court. Most of the amount has already been deposited and statement of various co-sharer have already been recorded. The submission of applicant/decreed holder is not maintainable that only decree holder can claim any amount from the judgment debtor and except decree holder no other person can claim any amount from decree holder and in case any



person having right in the decree in question he can claim the same in separate proceedings. This transaction will take much more time as the present execution applications falls in 10 year category. Therefore, the present application is hereby dismissed being devoid of any merits.”

7. The perusal of the impugned order further shows that the other co-sharers, which are mentioned and referred to above are not even the party to the suit as well as to the execution application.

8. Thereafter, on 16.07.2025, the following impugned order was passed by learned Civil Judge, (Junior Division), Guruharsahai:-

“Perusal of the file reveals that the co-sharers have received the share of their means profit and possession of their respective share in the suit land. The only share of Kakka Singh remains to be delivered to him. Accordingly, after deducting the share of all co-sharers the remaining share of Kakka Singh is liable to be delivered. Ahlmad is directed to issued warrants of possession of remaining share of Kakka Singh for 23.07.2025”

9. A perusal of above referred two impugned orders show that the learned Executing Court has failed to appreciate the decree and without application of judicial mind, passed the above referred impugned orders.

10. In view of the facts and circumstances of the present case, the revision petition is allowed and the orders dated 14.07.2025 and 16.07.2025 passed by learned Civil Judge, (Junior Division), Guruharsahai, District Ferozepur are set aside.

11. The matter is remanded to learned Civil Judge, (Junior Division), Guruharsahai, District Ferozepur, to decide the application filed

by the petitioner for compliance of order dated 12.12.2024, afresh after taking into consideration the facts, circumstances and parties in the decree dated 20.01.2011.

July 30th, 2025

(SUDEEPTI SHARMA)
JUDGE

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