



116

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

CR-5933-2025**Reserved on: 29.08.2025****Date of decision: 05.09.2025****SANTOSH AND OTHERS****..Petitioners****Versus****SHANKAR AND ANOTHER****..Respondents****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Sushil Jain, Advocate
for Mr. Amrainder Singh, Advocate
for the petitioners.

SUDEEPTI SHARMA, J. (Oral)

1. The challenge in the present revision petition is to order dated 11.08.2025 passed by learned Civil Judge (Junior Division), Ganaur, in Execution No.29 of 2024 dated 25.04.2024, titled as 'Shankar Vs. Ram Kumar', whereby third party objections dated 21.04.2025, filed by the petitioners were dismissed.

Brief facts of the case:-

2. Brief facts of the case are that respondent No.1/DH filed suit for declaration, possession and permanent injunction against respondent No.2/JD. The civil suit filed by respondent No.1/DH was decreed in his favour and he was declared owner in possession of the suit property as per the registered Will No.30 dated 16.05.2008 and against respondent No.2/JD. The decree for possession was also passed with respect to suit property by way of directing respondent No.2/JD to hand over the possession of suit property to respondent No.1. Suit for permanent injunction, restraining respondent No.2 from changing the nature of suit property by way of raising construction or in any other manner and also restraining him from alienating



the suit property to third party was also decreed in favour of respondent No.1 vide judgment and decree dated 25.01.2023 passed by learned Civil Judge (Junior Division), Ganaur.

3. Respondent No.2/JD filed appeal against judgment and decree dated 25.01.2023, which was dismissed by learned Additional District, Sonipat vide judgment and decree dated 17.11.2023.

4. Vide judgment and decree dated 25.01.2023, the Will was duly proved by respondent No.1/DH by examining its deed writer, attesting witnesses and clerk of the office of Sub-Registrar. The Will was held to be valid document and was affirmed by learned Civil Judge (Junior Division), Ganaur vide its judgment and decree dated 25.01.2023, which was affirmed by Additional District Judge, Sonipat vide its judgment and decree dated 17.11.2023.

5. Respondent No.1/DH filed execution petition, wherein, petitioners filed third party objection under Order XXI Rule 97, 99 and 101 read with Section 151 of the Code of Civil Procedure, 1908 by stating therein that respondent No.1/DH has got the impugned judgment and decree dated 25.01.2023 passed by concealing true and real facts. Further, that petitioners/applicants being legal representatives of Asha Ram, Jaipal, Ram Niwas and Ram Kumar are joint owners in possession over the suit property being real sons of the deceased, who never executed and got registered any Will in favour of respondent No.1/DH. The application filed by the petitioner was dismissed. Hence, the present petition.

Submissions of learned counsel for the petitioners:-

6. Learned counsel for the petitioners contends that petitioners were intentionally not impleaded as party and petitioners were in joint



ownership and possession of the property. He further contends that identification of property is not proper since respondent No.1/DH is alleging the property to be 250 sq. yards, whereas, the property is 190 sq. yards. He further contends that objections filed by the petitioners should have been tried and treated as a suit by leading evidence and framing issues. He therefore, contends that the present petition be allowed and order dated 11.08.2025 passed by learned Civil Judge (Junior Division), Ganaur, be set aside.

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

Analysis and Discussion:-

8. A perusal of file shows that the civil suit was filed by respondent No.1/DH in the year 2016. Thereafter, the appeal was filed by respondent No.2/JD in the year 2023 and as per the pleadings, the petitioners and respondent No.1 and 2 are related and it is unbelievable that petitioners did not come to know about filing of the civil suit by respondent No.1/DH in the year 2016 or the appeal filed by respondent No.2/JD against judgment and decree dated 25.01.2023, wherein, the petitioner could always get themselves impleaded by moving an application. Once, the decree is passed in favour of respondent No.1/DH and even in appeal filed by respondent No.2/JD the decree passed in favour respondent No.1/DH is upheld, and now at the stage of execution, the petitioners are moving third party objections. Further, one of the objection taken by the petitioners is regarding the execution and registration of Will in favour of respondent No.1/DH, which issue is already decided in favour of respondent No.1/DH vide judgment and decree dated 25.01.2023.



9. Once the issue regarding legality of Will has already been decided and the Will is held to be valid, now before the Executing Court the petitioners cannot raise the issue of legality of registration of Will No.30 dated 16.05.2018. Since the Executing Court cannot go beyond the decree and examine the legality and correctness of decree, and cannot touch the merits of the case/subject matter since it is beyond the scope of Executing Court, therefore, the objections filed by the petitioners are rightly rejected. Even the description of the property by the petitioners is wrongly mentioned. Further, admittedly the civil suit filed by respondent No.1/DH was decreed in his favour and against respondent No.2/JD vide judgment and decree dated 25.01.2023 passed by learned Civil Judge (Junior Division), Ganaur, and appeal filed by respondent No.2/JD against judgment and decree dated 25.01.2023 was dismissed by learned Additional District Judge, Sonipat vide its judgment and decree dated 17.11.2023 and regular second appeal is pending before this Court, wherein, there is no stay of execution proceedings, therefore, there is no merit in the present petition.

Decision:-

10. In view of the above, I do not find any infirmity or illegality in the order dated 11.08.2025, passed by learned Civil Judge (Junior Division), Ganaur, and the same is hereby affirmed.

11. Consequently, the present petition is hereby ***dismissed***.

12. Pending miscellaneous applications, if any, are also disposed of.

05.09.2025

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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No