

CR-8026-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(320)

CR-8026-2019

Date of decision: - 07.08.2025

Chhotta Singh and another

....Petitioners

Versus

Bikkar Singh (Deceased) through LRs and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Harsh Aggarwal, Advocate,
for the petitioners.

Mr. Vinod Kumar Kataria, Advocate
for respondent No.1.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for issuance of any appropriate order or direction for quashing the judgment dated 19.10.2019 (Annexure P-9) passed by the Additional District Judge, Faridkot in CMA No.20 dated 11.06.2019 titled as '*Chhotta Singh and another vs. Bikkar Singh and others*' as well as the judgment dated 27.05.2019 (Annexure P-8) passed by the Additional Civil Judge (Sr. Division), Faridkot in Execution No.2100 dated 04.05.2013 titled as '*Bikkar Singh Vs. Chhotta Singh and others*'.

2. Learned counsel for the petitioners has submitted that in the

present case, although, the suit for injunction filed by respondent No.1 had been decreed but the said respondent No.1 was never in possession and it is the present petitioners who have been in possession of the suit property. It is submitted that the judgment of the trial Court dated 15.01.1987 had not taken into consideration the revenue record and had misconstrued and mis-applied the evidence and thus, the decree passed in favour of respondent No.1 is inexecutable. It is further submitted that the application filed by respondent No.1 through his legal representatives under Order 21 Rule 32 of CPC for directing the restoration of the possession, is meritless and the impugned orders, vide which the said application had been allowed and the appeal therefrom had been dismissed, deserve to be set aside and the application under Order 21 Rule 32 CPC deserves to be dismissed.

3. This Court has heard learned counsel for the parties and has perused the paper-book and finds that the impugned orders are in accordance with law and deserve to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.

4. It is not in dispute that respondent No.1/Bikkar Singh had filed the suit for permanent injunction in which the following prayer was made:-

“Suit for permanent injunction restraining the defendants from interfering with the possession of the plaintiff of agricultural land bearing Khasra Nos.1125/8-0, 1126/15-11, 1127/12-4, of Khewat No.80 Khatoni No.101, situate in village Bhag Thala Kalan Tehsil Faridkot.”

5. The said suit was filed against the present petitioners and Kehar Singh on 31.10.1984. In the said suit, it was the case of the plaintiff/respondent No.1 that defendant No.1/petitioner No.1 had executed several agreements/documents, the details of which have been mentioned in para 2 of the judgment of the trial Court dated 15.01.1987, the relevant portion of which para is reproduced hereinbelow: -

- “(a) *Agreement to mortgage with possession dated 6-6-1969 for Rs.1500/- Advanced received Rs.875-00, Mortgage deed to be executed on 15-7-69.*
- (b) *Agreement to sell the aforesaid land dated 3.8.70 for Rs.6000/-.*
Advance received upto 3.8.1970 Rs.5700/- including the advance of agreement mentioned in sub para (a) above.
The defendant No.1 delivered the possession of the aforesaid land to the plaintiff pursuant to this agreement.
Sale Deed- was to be executed and registered on 5.10.70 on payment of Rs.300/- to the said defendant.
- (c) *That thereafter the defendant No. 1 Chhota Singh executed a sale-deed dated 1.9.72 in favour of the plaintiff pursuant to the agreement of sale mentioned above but he refused to proceed with its registration. Stamp-Duty was paid by the plaintiff.”*

6. On 26.04.1985, the trial Court had framed the following issues :

- “1. *Whether Chota Singh defendant No.1 executed the agreement dated 6-6-69 and 15-7-69 to mortgage his land and agreement to sell dated 3.8.70 to defendant his land in favour of the plaintiff?*
- 2. *Whether the defendant No. received any advance from the plaintiff in connection with the aforesaid agreement?*
- 3. *Whether defendant No.1 delivered the possession of the land in suit to the plaintiff pursuance to this agreement?*
- 4. *Whether defendant No.1 Chhota Singh executed the sale deed dated 1.9.72 in favour of the plaintiff pursuant to the*

agreement dated 3.8.79. If so, its effect?

5. *Whether the plaintiff filed a suit No.233/No.600 of 16-8-75/4.1.77 against the defendant and whether the aforesaid suit was dismissed? If so, its effect?*
6. *Whether the plaintiff has been ready and willing to perform his part of the contract?*
7. *Whether the plaintiff is in possession of the suit land and is entitled to protect his possession u/s 53-A of T.P.Act.*
8. *Whether the plaintiff is in possession of a part of the land as tenant.*
9. *Whether the suit is not in proper form?*
10. *Whether the suit is barred by the rule of resjudicata?*
11. *Whether the suit is time barred?*
12. *Relief.”*

7. After considering the oral and documentary evidence on record and after hearing all the parties concerned, the said suit was decreed in the following terms:-

“RELIEF

18. *In view of my findings on the aforesaid issues, the suit of the plaintiff is decreed with costs for permanent injunction restraining the defendants from interfering in the possession of the plaintiff over the suit land. Decree sheet be prepared and file be consigned to the record room.*

Announced: - 15-1-1987

*sd/-
Addl. Senior Sub Judge,
Faridkot. 15-1-1987”*

8. Thus, permanent injunction was granted in favour of the plaintiff and the present petitioners and defendant No.3 were restrained from interfering in the possession of the plaintiff over the suit land. The argument raised on behalf of the present petitioners that the plaintiff was

not in possession of the suit land and it was the defendants/present petitioners who were in possession of the suit land, was rejected. It is not in dispute that the appeal filed against the said judgment and decree was dismissed by the 1st Appellate Court vide judgment dated 18.08.1989 and a Regular Second Appeal bearing No.2523 of 1989 filed by the present petitioners against the judgment of the trial Court as well as of the 1st Appellate Court was also dismissed on 24.02.2009.

9. On 04.05.2013, respondent No.1 through his legal representatives had filed an application under Order 21 Rule 32 CPC read with Section 151 CPC to take legal action and to direct the judgment debtor for restoration of possession of the suit land and also to send him in imprisonment for violation of the judgment and decree dated 15.01.1987, which had been upheld up to the Hon'ble High Court and a further prayer had been made for payment of damage/compensation to the decree holders to the tune of Rs.5,00,000/- for such violation. In the said application, it was specifically stated that on 23.09.2012 the present petitioners along with other persons had forcibly taken the possession of the land in dispute and had harvested the crops of the decree holders and had caused loss to the decree holders in violation of the judgment and decree dated 15.01.1987 which had been upheld up to the High Court. It was further pleaded that on 23.09.2012, the decree holder had approached the police authorities but nothing was done and thus, the application was filed. The said application was opposed by filing a reply dated 07.01.2015 (Annexure P-5) in which the plea was raised that the respondent No.1-

plaintiff was never in possession of the suit land and it was the present petitioners who were in possession of the land.

10. The Additional Civil Judge (Senior Division), Faridkot, vide order dated 22.07.2015, had framed the following issues in the case:-

- “1. *Whether the respondents willfully disobeyed the judgment and decree dated 15.01.1987? OPA*
2. *Whether the application is not maintainable? OPR*
3. *Whether the applicants have concealed the material facts from the Court? OPR*
4. *Relief.”*

11. After taking into consideration the entire evidence on record and the documents on record, the Additional Civil Judge (Sr. Division), Faridkot, vide order dated 27.05.2019 (Annexure P-8) allowed the application and warrants of possession of half share out of total land measuring 35 kanals 15 marlas, which was in the possession of the present petitioners, were ordered to be issued. The appeal filed by the present petitioners against the said order dated 27.05.2019 was dismissed by the Additional District Judge, Faridkot vide order dated 19.10.2019 (Annexure P-9). It is said orders dated 27.05.2019 (Annexure P-8) and dated 19.10.2019 (Annexure P-9) which have been challenged by the petitioners in the present revision petition.

12. The Additional Civil Judge (Sr. Division), Faridkot as well as the Additional District Judge, Faridkot in the impugned orders dated 27.05.2019 and 19.10.2019 had concurrently found and observed that the decree-holder had filed the suit for permanent injunction, which was decreed and was upheld up to the High Court. The plea raised by the

petitioners that the said judgment and decree was obtained by concealment or there was fraud, was rejected. It was observed that the executing Court cannot go beyond the decree and that even in the reply to the application under Order 21 Rule 32 CPC, there was no specific denial by the judgment debtors/present petitioners that they had not dispossessed the decree-holder and they had only alleged that the decree-holder was never in possession, which argument was contrary to the finding of the civil Court. The said orders are legal and in accordance with law and deserve to be upheld.

13. It is a matter of settled law that the executing Court cannot go beyond the decree. In the application under Order 21 Rule 32 CPC, which is for enforcing the decree of injunction, it is not open to the judgment debtor to raise pleas which had already been rejected by the civil Court while adjudicating the main suit, more so, when the said finding had been upheld by the 1st Appellate Court as well as the by the High Court in the Regular Second Appeal filed by the present petitioners. All the arguments with respect to there being misreading etc. of the record could have been raised by the present petitioners before the 1st Appellate Court or before the High Court while challenging the judgment and decree of the trial Court. Once a decree had been passed in favour of the plaintiff/decreed-holder and the present petitioners had been restrained from interfering in the possession of the plaintiff/decreed-holder over the suit land, then, it was not open to the petitioners to allege in the execution proceedings that they were entitled to possession. Moreover, it was

observed by both the Courts that in the application under Order 21 Rule 32 CPC, it was the case of the plaintiff/deGREE holder that forcible possession was taken on 23.09.2012 and the said averments had not been specifically denied by the petitioners and the sole plea raised by the petitioners was that the plaintiff was never in possession. Permitting the petitioners to continue to be in possession, which is apparently illegal possession, after the passing of the judgment and decree dated 15.01.1987 would be rendering the said judgment and decree, which had been upheld up to the High Court, negatory.

14. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the impugned orders dated 27.05.2019 (Annexure P-8) and dated 19.10.2019 (Annexure P-9) do not call for any interference by this Court and accordingly, the impugned orders are upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

August 07, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes