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IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

\*\*\*

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Date of decision : 30.01.2025

Sukha Singh

... Petitioner

Versus

Sucha Singh and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Vijay Rana, Advocate  
for the petitioner.

**VIKAS BAHL, J.(ORAL)**

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 08.10.2024 (Annexure P-7) passed by the Executing Court, Jalandhar, District Jalandhar, vide which the objections filed by the present petitioner has been dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, the judgment and decree dated 03.11.2015 with respect to possession and recovery of Rs.1000/- per month from the date of filing of the suit till the date of delivery of possession was passed in favour of respondents-plaintiffs and thereafter, they had filed an execution application. The first execution application was filed and in the said execution application vide order dated 19.08.2023, the decree holder had



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stated that he had received the possession of the demised premises and thereafter, withdrew the execution application as being fully satisfied. It is submitted that however, prior to 19.08.2023 i.e., on 16.08.2023 another execution was filed for recovery of the amount without disclosing the factum with respect to earlier execution application in spite of there being a specific column for the same. It is submitted that the petitioner had submitted objections to the said second execution application but the same had been illegally dismissed by the Executing Court. It is argued that once the first execution application was withdrawn after being fully satisfied, the second execution application was not maintainable and thus, the objections filed by the petitioner-judgment debtor should have been allowed and the impugned order deserves to be set aside. In support of his arguments, learned counsel for the petitioner has relied upon the judgment dated 05.06.2020 of the Madras High Court in the case of “***M.S. Jayaprakash and another vs. G.Sundaram (died) through his legal representative***” ***C.R.P.(NPD) no.1705 of 2013.***

3. This Court has heard the learned counsel for the petitioner and has perused the paper book and finds that the impugned order has been passed in accordance with law and the present petition being meritless deserves to be dismissed for the reasons recorded hereinafter.

4. It is not in dispute that the respondent had filed a suit for possession of shop in question and also for recovery of Rs.33,000/- on account of arrears of rent in respect of shop in question along with upto date interest @ 12% per annum from 01.01.2011 till its actual realization. In the



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said suit, the present petitioner was the defendant and after full contest, the trial Court vide judgment and decree dated 03.11.2015 granted following relief to the respondents:-

**“RELIEF**

*23. In view of the aforesaid discussion, the suit of the plaintiffs is partly decreed and the plaintiffs **are held entitled to possession and are further held entitled to recovery of Rs.1000/- per month from the date of filing of the suit till the date of delivery of possession of the suit property. The plaintiffs shall be further entitled to 6% per annum future interest but only from the date of judgment till the date of payment over the entire amount held to be due. Decree sheet be prepared and file be consigned to the record room after due compliance.***

*Pronounced in open Court*

*Dt:03.11.2015*

*(Dr. Mandeep Mittal) PCS  
Civil Judge (Sr.Divn.)-(NRI cases),  
Jalandhar.*

A perusal of the above would show that in the said suit, the plaintiffs-respondents were held entitled to possession and also for recovery of Rs.1000/- per month from the date of filing of the suit till the date of delivery of possession of the suit property and further entitled to 6% per annum future interest.

5. In the execution application dated 31.05.2023 (Annexure P-4), it was stated that the appeal filed against the said judgment was dismissed by the Ist Appellate Court on 23.03.2017 and even the appeal before the High Court was dismissed vide order dated 31.01.2020. Although the said judgments have not been annexed with the present petition but the fact that

the judgment of the trial Court has been upheld upto the High Court has not

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been disputed before this Court. Thus, as per final adjudication, the respondents-plaintiffs were entitled to possession as well as recovery of Rs.1000/- per month from the date of filing of suit till delivery of possession. It is not in dispute that no money has been paid by the petitioner to the plaintiffs in pursuance of the said decree and the decree to the extent of recovery of money is still unsatisfied. Only the possession of the property has been handed over to the decree holder that too after he had filed execution and had pursued his rights till the year 2023. The objections filed by the petitioner to the second execution had been dismissed by the Executing Court vide order dated 08.10.2024 after observing that the claim of the decree holder was satisfied only qua possession and there was no statement of the decree holder with respect to recovery of the amount as awarded by the trial Court. The judgment of the trial Court has attained finality and thus, the decree holder could not be debarred from claiming the recovery of amount granted in his favour in the judgment and decree dated 03.11.2015 and that it is well settled law that the Executing Court cannot go beyond the decree, *moreso*, when there is no stay order operating in favour of the petitioner against the judgment and decree dated 03.11.2015. Accordingly warrants of attachment were issued on filing of list of the property of the judgment debtor. No further order after 08.10.2024 to show as to what transpired subsequent to the said order has been annexed along with the present petition.

6. It is a matter of settled law that it is the duty of the Executing Court to execute the judgment and decree in accordance with the relief



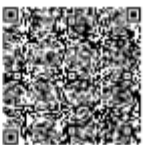
granted / decree passed. In the present case, the decree passed in favour of the respondents-plaintiffs is both for possession and for recovery of money. Admittedly, the petitioner has not paid the decretal money which he has been held liable to pay. Thus, in the said circumstances, it cannot be said that the impugned order dated 08.10.2024 which has been passed, is illegal, calling for any interference by this Court in the exercise of its jurisdiction under Article 227 of the Constitution of India. By virtue of the impugned order, the Executing Court has done justice to the respondents-plaintiffs by permitting them to pursue their right to execute the judgment and decree and the same does not call for any interference.

7. The judgment cited by the learned counsel for the petitioner in the case of *M.S. Jayaprakash and another (supra)* in support of his arguments does not further the case of the petitioner in any manner. In the said case, the decree holder had sought eviction of the property and the said relief was granted to the decree holder vide decree dated 25.11.2011. An execution petition was filed and delivery of property was ordered and the execution petition was thereafter terminated / closed. It is thereafter that the decree holder had filed an application to re-open the execution proceedings on the ground that the Bailiff, who had gone to execute the warrants, had colluded with the judgment debtor and had not properly taken into consideration the schedule of the property and had taken possession of 200 sq. ft. of property alone instead of 1240 sq. ft. The said application was dismissed on the ground that since delivery had been duly recorded and the execution petition had been terminated, the same could not be reopened.

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The Madras High Court however, after observing that the extent of the possession was disputed, considered it to be a fit case where the revisional powers of the Court should be exercised under Section 115 of the Civil Procedure Code and allowed the revision petition filed by the landlord/decreed holder therein and remitted the matter to the Rent Controller, X-Small Causes Court, Chennai, to hold a preliminary enquiry as to the extent of the land of which the possession had been given after giving due opportunity to both the parties. The said judgment was in fact in favour of the decreed holder therein and thus, goes against the petitioner in the present case, who is a judgment debtor. The abovesaid relief was granted to the decreed holder therein after noticing the objection raised on behalf of the judgment debtor therein that the execution petition had been duly executed in terms of the decretal order to the satisfaction of the decreed holder and report of the senior Bailiff was also filed and recorded in the Court and hence it was not open to the decreed holder to raise a plea that the property had not been duly identified.

8. The facts of the present case are on a much higher footing in favour of the decreed holder than the facts of the above said case and yet the Madras High Court had held the case in favour of the decreed holder. In the present case, there is no ambiguity, inasmuch as, two reliefs have been specifically granted by virtue of the judgment and decree dated 03.11.2015 that being of possession and recovery of money and further there is no dispute that recovery of money has not been effected, although in the case before the Madras High Court there were disputed questions raised and the



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petition of the decree holder was allowed to do complete justice to the decree holder. Moreover, no law has been cited before this Court to show that in such circumstances, as in the present case, the decree holder is estopped from filing the second execution application for recovery of the arrears of rent which have been granted to him vide judgment and decree dated 03.11.2015. Interference by this Court in such a matter would in effect result in non-execution of a part of the decree dated 03.11.2015 in spite of the fact that the said decree has attained finality.

9. Keeping in view the abovesaid facts and circumstances, the present revision petition being meritless deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)  
JUDGE

January 30, 2025.  
*Davinder Kumar*

|                             |        |
|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |