



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

COCP No. 08 of 2025(O&M)

Date of Decision: 24.07.2025

Smt. Santosh and another

..... Petitioners

Versus

Gopal Ansal, Director M/s. M.K. Towers Pvt. Ltd.,
New Delhi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sunil Chadha, Senior Advocate, assisted by
Ms. Devyani Sharma, Advocate
for the petitioners.

HARKESH MANUJA, J. (ORAL)

The petitioners, by way of present petition, seek initiation of contempt proceedings against the respondents, alleging willful non-compliance of order dated 05.12.2023 (Annexure P-1) passed by this Court in ***Civil Revision No. 7096 of 2017***, titled ***“Smt. Santosh and another Versus Vijay Pal and others”***, alongwith ***Civil Revision No. 7099 of 2017***, titled ***“Smt. Santosh and another Versus M/s. S.J. Towers and Developers Pvt. Limited and others”***, relevant portion thereof is extracted hereunder:-

“ Therefore, both the Civil Revisions bearing Nos. 7096 of 2017 and 7099 of 2017 preferred by the petitioners/plaintiffs are accepted and the impugned common judgment dated 30.08.2017, Annexure P-12 passed by learned Additional District Judge, Gurgaon in Civil Appeal No. 66 of 11.05.2015/10.08.2015, titled ‘M/s S.J.

Towers and Developers Private Limited and others versus Smt. Santosh and another' and in Civil Appeal No. 86 of 15.05.2015/06.07.2017, titled 'Vijay Pal versus Smt. Santosh and others', is set aside being without justification and the order dated 07.04.2015, Annexure P-9 passed by learned Civil Judge (Junior Division), Gurgaon is restored. The Civil Revisions are accordingly, allowed."

[2] Briefly stating, the petitioners filed a suit for declaration claiming themselves to be owner in possession of some land situated within the revenue estate of Village Tigra, Tehsil and District Gurugram besides seeking permanent injunction as well. So as to understand the relief claimed in the suit, relevant para-2 of the judgment dated 07.03.2006 (Annexure P-2) passed by learned Civil Judge (Junior Division), Gurgaon (***hereinafter to be referred as "trial Court"***) is extracted hereunder:-

" 2. That Sh. Nawla, father of the plaintiffs, and defendants Nos. 1 to 4 was owner in possession of the agricultural and land bearing Khewat No. 106, Khata No. 143, Rect. No. 14, Killa No. 17 (8-0), 18/1 (5-8), 23 (8-0), 25/2 (6-2), Rect. No. 23, Killa No. 7 (8-0), total admeasuring 43 Kanals 10 Marlas to the extent of ½ share situated in revenue estate of Village Tigra, Tehsil and District Gurgaon by virtue of jamabandi for the year 1986-87. He died on 3.6.88, plaintiffs and defendants nos. 1 to 4 alongwith their mother Smt. Anguri and sisters inherited the mentioned in para no.1 of the plaint according to their share i.e. 1/20 share each and mutation of inheritance no.527 was duly sanctioned on 25.8.88. Since the plaintiffs are owners in possession of the agricultural land being khewat no. 126, khata no.156, rect. No.14, killa no. 17(8-0), 18/1(5-8), 23(8-0), 25/2 (6-2), Rect. No.23, Killa No.7 (8-0), total measuring 43 Kanals 10 marlas to the extent of ½ share situated in the revenue estate of village Tigra, Tehsil and District Gurgaon."

[3] The aforementioned suit bearing Civil Suit No. 141 of 07.09.1998 titled “*Smt. Santosh and another Versus Braham Parkash and others*” came to be decreed *ex parte* against defendant Nos. 5 to 8, vide decision dated 07.03.2006 by the learned trial Court. Relevant paras-9 to 11 thereof are extracted hereunder:-

“ISSUE NO.3

9. *In view of the findings on issues no.1 and 2 above, the plaintiff is entitled for the decree of possession. Hence, this issue is decided in favour of the plaintiffs.*

ISSUE NO. 4 TO 7

10. *These issues were not pressed during the course of arguments. Nor there is any evidence produced by the defendants to prove these issues. Hence, these issues are answered against the defendants.*

ISSUE NO.8 (Relief)

11. *As a sequel to the findings of this court on the issues mentioned above, the suit of the plaintiffs succeeds and the same is hereby decreed with costs. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance.”*

[4] Later, an application under Order IX Rule 13 of CPC for setting aside the *ex parte* judgment and decree dated 07.03.2006 passed by the trial Court was filed by respondent Nos. 1 to 4 which was dismissed on 07.04.2015.

[5] Aggrieved thereof, two separate appeals were filed; one appeal preferred by respondent Nos. 1 to 4 and the other one by respondent Nos. 5 to 8. The said two appeals were allowed by the Court of learned District Judge, Gurgaon vide judgment dated 30.08.2017.

[6] Thereafter, the petitioners being aggrieved filed two different Civil Revision Nos. 7096 & 7099 of 2017 which were allowed by this Court vide judgment dated 05.12.2023 (Annexure P-1), consequently dismissing

the applications preferred at the instance of two sets of the defendants.

[7] Still aggrieved, the order dated 05.12.2023 passed by this Court was assailed before the Hon'ble Apex Court and the Special Leave to Appeal (C) No(s). 7171 of 2024 was dismissed vide order dated 17.05.2024, thereby resulting into the finalization of the judgment and decree dated 07.03.2006 in favour of the petitioners.

[8] By way of the present contempt proceedings, it has been submitted that despite there being a judgment and decree dated 07.03.2006 been passed in favour of the petitioners with respect to their ownership and also holding them entitled for possession of the property in question (as detailed in paragraph No. 2 of the judgment dated 07.03.2006), the petitioners have not been put into possession and on the other hand, respondent Nos. 1 to 4 have been proceeding further towards alienation of the property in question and thus, proceedings under the Contempt of Court Act are required to be initiated against them

[9] After hearing learned Senior Counsel for the petitioners as well as having gone through the paper-book, I am unable to find substance in the submission(s) made on behalf of the petitioners.

[10] A perusal of para-2 of the judgment and decree dated 07.03.2006 passed by the trial Court clearly shows that the petitioners being plaintiffs in the said suit claimed ownership of the subject property merely being co-sharers in the joint khewat and thus, the judgment and decree dated 07.03.2006 passed in their favour was at best a decree for joint possession in their favour and as such, there was no question of delivery of actual physical possession in their favour in terms of Order XXI Rule 35 of the Code of

Civil Procedure, 1908 **(for short “CPC”)**, till the partition of the joint property was effected. For reference, Order XXI Rule 35 (2) of CPC is extracted hereunder:-

“ **Rule 35, Decree of immovable property –**
(1) XXXXX
(2) *Where a decree is for the joint possession of immovable property, such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming the beat of drum, or other customary mode, at some convenient place, the substance of the decree.*
(3) XXXX ”

[11] Furthermore, from the records of the present contempt proceedings, it cannot be traced out as to whether respondent Nos. 1 to 4 while making alienations from the joint property ever exceeded their share and as such in the aforementioned facts and circumstances; especially when the petitioners have already moved before the learned Executing Court having filed Execution Petition bearing EXE/391/2024 for the purpose of seeking execution of judgment and decree of 07.03.2006, in the considered opinion of this Court, no cause is made out to proceed further in the contempt jurisdiction at this stage.

[12] Accordingly, the present contempt petition is hereby **dismissed.**

July 24, 2025
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No