IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

C.R. No.68 of 2019
Reserved on 14.09.2026
Decided on: 30.10.2026
Uploaded on: 30.10.2026

Udhey Chand and others ...Petitioners

Versus

Varinder Kumar and others ...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?[1]

For the petitioners:	**Mr. Ajay Sharma, Senior Advocate with Mr. Atharv Sharma and Mr. Tarun Brakta, Advocates.**
For the respondents:	**Mr. Atul Jhingan, Mr. Mohinder Verma, Mr. Gunjan Sharma and Ms. Yukti Shandil, Advocates.**

Jiya Lal Bhardwaj, Judge

The petitioners/judgment debtors feeling aggrieved by the order dated 08.04.2019 passed by the learned Senior Civil Judge, Court No (1), Amb, Una in case titled, ***Bimla Wati*** vs. ***Abhay Chand***, whereby warrant of possession has been issued to handover the vacant and peaceful possession of the suit land to the respondents/decree holders, have preferred the present revision petition.

[1] *Whether the reporters of Local Papers may be allowed to see the judgment?*

2. The respondents/decree holders have filed a petition seeking execution of decree dated 09.01.1978, passed by the learned Senior Sub Judge, Hoshiarpur in Civil Suit No.294 dated 23.12.1975, titled, ***Bimla Wati*** vs. ***Abhey Chand and others,*** in their favour and against the petitioners/judgment debtors, before the learned Senior Civil Judge, Court No. 1, Amb, District Una, H.P.

3. The parties in the present petition are hereinafter referred to as decree holders and judgment debtors, as referred before the executing Court.

4. The judgment debtors preferred the objections against the decree that they cannot be dispossessed by execution of warrant of possession in execution of decree dated 09.01.1978, from the land measuring 23-88-88 hectares bearing khewat No. 1, khasra Nos. 858, 992, 1133, 1140, 1293, 1294, 1296, 1298, 1299, 1370, 1402, 14, 04, 1410, 1862, 1946, 1959, 2030, 2048, 2064, 2030, 2048, 2065, 2066/2, 2076, 2078, 2081, 2085, 2162, 2173, 2174, 2195/1, 2205, 2206, 2207, 2208, 2211, 2213, 2215, 2219, 2220, 2227, 2228, 2229, 2236, 2238, 2239, 2241, 2243, 2245, 2284, 2285, 2286, 2287, 2289, 2291, 2293 and 2294, as entered in jamabandi for the year 2006-2007, situated in village Abheypur, Tehsil Amb, District Una, H.P., as the legality of the alleged decree has been challenged in Civil Suit No.27 of 2016, which is pending before the Civil Judge, Court No.3,

Amb and said Court has passed the status quo order on 09.02.2016 and the judgment debtors No. 1 to 3 therein cannot be dispossessed from the above referred land out of the decretal land till the disposal of the said civil suit.

5. In Civil Suit No.27 of 2016, the judgment debtors No.1 to 3 have filed counter claim for declaration to the effect that they are owners in possession of the above land measuring 23-88-88 hectares bearing khewat No.1 and the alleged decree passed in Civil Suit No.294 of 1974 dated 09.01.1978, on the basis of the alleged Will dated 29.01.1969 of Ram Chand, father of Bimla Wati (mother of decree holder), is ineffective and unenforceable qua the suit land as said Ram Chand was not the absolute owner in possession of the suit land of khewat No.1 on the date of execution of the alleged Will and on the death of executor (Ram Chand), the said land was coming in actual physical cultivating possession of Abhay Chand, father of the judgment debtors, openly, continuously, without interruption, hostile to the knowledge of owner since 11.11.1955, and the possession of the said Abhay Chand had ripened into ownership by way of adverse possession, and as such, Ram Chand had left with no right and title to convey title regarding the said suit land being not absolute owner, and consequently, the alleged Will dated 29.01.1969 of Ram Chand has not conveyed any right or title for the above said land to Bimla

Wati (mother of decree holders) and the alleged decree passed in Civil Suit No.294 dated 09.01.1978 declaring Bimla Wati as owner on the basis of the alleged Will dated 29.01.1969 qua the suit land is illegal, null and void, ineffective and against the rights and title of the judgment debtors.

6. Learned executing Court after considering the objections raised by the judgment debtors came to the conclusion that the objections taken by the judgment debtors after adjudication before the competent Civil Court/trial Court and after unsuccessfully assailing the judgment up to the level of High Court, this Court has no authority to adjudicate the said issues and thus concluded that the same have been preferred merely to delay the execution of the decree. The same were ordered to be dismissed subject to cost of Rs.3,000/- and the execution petition was allowed and the warrant of possession was issued with specific direction to the Bailiff to handover the vacant and peaceful possession of the suit land to the decree holders.

7. The judgment debtors have preferred the present petition against the order, whereby their objections have been rejected *inter alia* on the grounds that on the date of filing the suit and on the date of passing the decree, the property not being in the hands of late Shri Ram Chand in view of the provisions of The Himachal Pradesh

Ceiling on Land Holdings Act, 1972 (in short 'the Ceiling Act') and the decree as passed being a nullity, cannot be executed and the said aspect was to be decided by the learned executing Court as per the provisions of Section 47 of the Code of Civil Procedure (in short 'CPC'). However, the learned executing Court has not considered the said aspect of the matter and, therefore, has committed illegality while rejecting the objections preferred by the judgment debtors. It has further been averred that all questions arising between the parties in execution have to be decided as per the provisions of Section 47 of the CPC, by giving an opportunity of hearing. The plea of the judgment debtors of their becoming owners by way of adverse possession, was also raised on the ground that the land in the hands of late Shri Ram Chand was that of maternal uncle of predecessor-in-interest of the judgment debtors. The property in question originally belonged to Shri Kushala, maternal grand father of predecessor-in-interest of the judgment debtors, who made Will of property situated in village Abheypur, to his daughter Smt. Ghungali Devi, who was married to predecessor-in-interest of the judgment debtors Sh. Abhay Chand who was the son of Smt. Ghungali Devi. Sh. Ram Chand contracted another marriage with Smt. Mansa Devi and then Smt. Bimla Wati was born, who was the predecessor-in-interest of the decree holders. The property in the hands of Sh. Ram Chand

after coming into force the provisions of the Ceiling Act, land measuring 6663 kanals 90 marlas was declared surplus in ceiling case No.295 of 1974 and another piece of land belonging to him measuring 6590 kanals 9 marlas was declared surplus in Case No.666 of 1974. The land so declared as surplus was vested with the Government and was allotted to various landless persons, who now have become owners and firstly, Government having not added as party to the decree, now sought to be executed despite knowledge, thus also the decree now sought to be executed for a particular land shown in thousand kanals being nullity, cannot be executed.

8. It has further been averred in the petition that Abhay Chand was given one unit independently in ceiling cases No.666 of 1974 and 295 of 1974 and since no appeal/revision was filed and same became final, the executing Court has not considered that aspect of the matter. Though, it was brought to its notice that the ceiling case was decided on 08.07.1976, but the matter was remanded by the learned Financial Commissioner and after remand, same was decided vide order dated 25.02.1983, which specifically and categorically provide that deceased Ram Chand was having a major son, Shri Abhay Chand, and thus being entitled for two units and second unit, thus was of the predecessor-in-interest of the judgment debtors. It has also been averred that the Collector, Una

had decided the matter, vide order dated 22.09.2007 with respect to give possession etc. on the basis of the orders dated 08.07.1976 and 25.02.1983 and the predecessor-in-interest of the decree holders having assailed the said orders before the Divisional Commissioner by filing an appeal, which appeal is still pending, the executing Court should have restrained its hand from giving decision in the execution petition until the decision in the appeal and thus sought for setting aside the order passed by the executing Court, whereby the objections preferred by the petitioners/judgment debtors have been dismissed and the matter may be sent back to the executing Court below for adjudication afresh.

9. I have heard the learned counsel for the parties and also perused the record carefully.

10. Learned senior counsel for the judgment debtors had vehemently argued that since the learned executing Court has not considered the objections in right perspective inasmuch as the provisions of the Ceiling Act have not been taken care of, the impugned order under challenge deserves to be quashed and set aside. Learned senior counsel has referred to the provisions of the Ceiling Act to buttress his submissions. He submitted that as per Section 3 of the Ceiling Act 'a person means the land owner, tenant and mortgagee with possession and includes a company, a family

and an association or other body of individuals, whether incorporated or not, and any institution capable of holding property and Section 3(q) defines separate unit means 'an adult son or in case of his death, his widow and children, if any, and the appointed day of the implementation of the Act is 24.01.1971 and since Ram Chand had died on 15.12.1974 and the ceiling case was decided on 08.07.1976, the predecessor-in-interest of the decree holders was not entitled to the suit land. Further, learned senior counsel for the judgment debtors had also vehemently argued that the learned executing Court has based its findings on the judgment passed by the Full Bench of this Court in **Rajkumar Rajindra Singh** vs. **Union of India and others**, AIR 1976 H.P. 82. However, the said judgment has been overruled by the Hon'ble Supreme Court in ***State of Himachal Pradesh and others*** vs. ***Ashwani Kumar and others***, (2015) 15 SCC 534, to the effect that the High Court had committed serious error of law in holding that if a wife holds land separately in her own right, she is entitled to be treated as an individual person for the purpose of determining the permissible area available to her.

11. Learned senior counsel representing the judgment debtors had further argued that the executing Court had to decide the issue to the effect that Abhay Chand, being adult son of Ram Chand, was entitled to one unit and since this aspect has not been

considered by the executing Court, the impugned order is unsustainable. Learned senior counsel also argued that for want of identification of the suit land, the decree has become inexecutable. The Court while executing the decree can go behind the decree and further as per the findings returned by the Division Bench of the High Court of Punjab and Haryana, once it was clearly observed that the legal effect of the orders passed by the authorities under the provisions of the Ceiling Act would be seen by the competent authority, the executing Court has erred in not considering the said aspect of the matter. He also placed reliance upon the judgments of the Hon'ble Supreme Court in ***V.* Ramaswami Aiyengar and others** vs. **T. N. V. Kailasa Thevar**, AIR 1951 SC 189**, Jai Narain Ram Lundia** vs. **Kedar Nath Khetan and others,** AIR 1956 SC 359**, Dr. Madhukar Trimbak Gore** vs. **Vasant Ramkrishna Kolhatkar** AIR 1983 Bombay 277**, Dularey Lodh** vs. **Third Additional District Judge, Kanpur and others,** (1984) 3 SCC 99**, Jagdish Lal and another** vs. **Surender Kumar and others**, AIR 1985 Punjab and Haryana 76**, Noorduddin** vs. **K.L. Anand,** (1995) 1 SCC 242, **Dhurandhar Prasad Singh** vs. **Jai Prakash University and others,** (2001) 6 SCC 534, **N.S.S. Narayana Sarma and others** vs. **M/s Goldstone Exports (P) Ltd. and others,** AIR 2002 SC 251, **Kishore Samrite** vs. **State of Uttar**

Pradesh and others, (2013) 2 SCC 398 and **Brakewel Automotive Components (India) Private Limited** vs. **P.R. Selvam Alagappan** (2017) 5 SCC 371 and contended that the executing Court can look into the decree whether it is capable of execution under law and further if the Court is unable to identify the property, it can restrain itself from executing the same.

12. On the other hand, the learned counsel representing the decree holders supported the order passed by the executing Court and submitted that the executing Court cannot go behind the decree. In the case of the decree holders, the judgment and decree was passed in their favour on 09.01.1978 and the appeal preferred by the judgment debtors was firstly dismissed by the learned Single Judge of the Punjab and Haryana High Court. Thereafter, the judgment debtors had preferred the Letters Patent Appeal before the Division Bench of Punjab and Haryana High Court, which was also dismissed on 02.08.2005 and till date, despite the decree in favour of decree holders, they are unable to reap the fruits of the decree.

13. Learned counsel representing the decree holders submitted that since the decree holders have been granted a decree for possession of the agricultural land and the houses described in the title of the plaint and against the judgment debtors, they are entitled to get the possession of the land and the executing Court

has not committed any error while dismissing the objections preferred by the judgment debtors. Learned counsel also submitted that this Court can interfere with the order passed by the executing Court only if there is perversity in the order passed by the executing Court or the Court has not followed the due process of law or has passed the order beyond the record. Since the executing Court has neither committed any illegality nor there is perversity in the order, the revision petition being bereft of any substance deserves to be dismissed.

14. I have given my considerable thought to the submissions made by the learned senior counsel representing the judgment debtors as well as learned counsel representing the decree holders and not in agreement with the submissions made by the learned senior counsel representing the petitioners-judgment debtors.

15. The plea, which had been taken by the learned senior counsel for the judgment debtors, that since the property was not in the hands of Ram Chand in view of the provisions of the Ceiling Act, the same could not have been gone to the Bimla Wati, is concerned, that question cannot be gone into by this Court for the reason that the judgment passed by the learned trial Court dated 09.01.1978 was questioned by the judgment debtors by way of an appeal before the learned Single Judge of Punjab and Haryana High Court, which was

dismissed and thereafter, they had preferred the Letters Patent Appeal before the Division Bench of Punjab and Haryana High Court, which was also dismissed on 02.08.2005.

16. In the Letters Patent Appeal, which was preferred by the judgment-debtors, they had filed an application for production of additional evidence averring therein that the suit instituted by Bimla Wati on 23.12.1975 and the orders, which were sought to be produced on record, were passed by the prescribed authorities under the Ceiling Act in the year 1976. The written statement was filed by defendant No.1-Abhay Chand, who was the predecessor-in-interest of the judgment debtors thereafter and in such circumstances, nothing prevented him from setting up any such plea by relying upon the aforesaid orders of the prescribed authorities. Further, the said orders passed by the prescribed authorities *per se* cannot correlate to the land in dispute and a foundation was required to be laid with regard to the identity of the land and the effect of aforesaid orders on the rights of the parties and since neither such plea was ever raised nor any other foundation was laid, the aforesaid additional evidence on a question of fact cannot be permitted at the stage of Letters Patent Appeal. Even otherwise, the controversy in the appeal is only with regard to the succession of the estate of Ram Chand, deceased and both the parties have relied upon two different Wills

respectively stated to have been executed by Ram Chand and in such circumstances, it would be wholly irrelevant for this Court to go into the question of any estate of Ram Chand having been declared as surplus or otherwise. It was observed that the legal effect of the aforesaid orders passed under the provisions of the Ceiling Act would be for the competent authorities to decide and the application filed by the judgment debtors for leading additional evidence cannot be allowed and the same was dismissed.

17. On merits, the Letters Patent Appeal preferred by the judgment debtors was dismissed and the Will, which was allegedly executed in favour of the judgment debtors was held to be never executed by Ram Chand and the judgment and decree passed by the learned trial Court dated 09.01.1978 was upheld and Smt. Bimla Wati was granted a decree for possession of the agricultural land and the houses. Once the decree passed by the learned trial Court has been affirmed in the Letters Patent Appeal, the learned executing Court, while considering the objections cannot go behind the decree and the executing Court has rightly come to the conclusion that the objections preferred by the judgment debtors are not to be looked into and the executing Court has only to execute the decree.

18. It is not in dispute that the learned trial Court had passed the decree in favour of Smt. Bimla Wati, who was the predecessor-in-

interest of the judgment debtors, being their mother and the decree holders, are entitled to execute the decree. Learned senior counsel representing the judgment debtors has referred to the judgments mentioned above, which are of no help to him. The Hon'ble Supreme Court has held that the executing Court is empowered to decide questions relating to execution, discharge or satisfaction of the decree and cannot go behind the decree sought to be executed. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in **Vasudev Dhanjibhai Modi** vs. **Rajabhai Abdul Rehman and others**, (1970) 1 SCC 670 and the relevant para reads as under:-

> *"6. A Court executing a decree cannot go behind the decree between the parties or their representatives it must take the decree according to its tenor, and 6 cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties."*

19. A similar view was reiterated by the Hon'ble Supreme Court in **Sunder Dass** vs. **Ram Prakash**, (1977) 2 SCC 662. However, it was held that the executing Court can go behind the decree if it is pleaded that the decree was a nullity by reason of the Court passing it lacked inherent jurisdiction to pass it. The relevant para of the judgment reads as under:

> *"3. Now, the law is well settled that an executing court cannot go behind the decree nor can it question its legality or correctness. But there is one exception to this general rule and that is that where the decree sought to be executed is a nullity for lack of inherent jurisdiction in the court passing it, its invalidity can be set up in an execution proceeding. Where there is lack of inherent jurisdiction, it goes to the root of the competence of the court to try the case and a decree which is a nullity is void and can be declared to be void by any court in which it is presented. Its nullity can be set up whenever and wherever it is sought to be enforced or relied upon and even at the stage of execution or even in collateral proceedings. The executing court can, therefore, entertain an objection that the decree is a nullity and can refuse to execute the decree. By doing so, the executing court would not incur the reproach that it is going behind the decree, because the decree being null and void, there would really be no decree at all. Vide Kiran Singh v. Chaman Paswan and Seth Hiralal Patni v. Sri Kali-Nath. It is, therefore, obvious that in the present case, it was competent to the executing court to examine whether the decree for eviction was a nullity on the ground that the civil court had no inherent jurisdiction to entertain the suit in which the decree for eviction was passed. If the decree for eviction was a nullity, the executing court could declare it to be such and decline to execute it against the respondent."*

20. The above view was again reiterated by the Hon'ble Supreme Court that the executing Court cannot go behind the decree and modify the same in ***Deepa Bhargava and another*** *vs.* ***Mahesh Bhargava and others,*** (2009) 2 SCC 294. The relevant para of the judgment is reproduced hereunder:-

> *"9. There is no doubt or dispute as regards interpretation or application of the said consent terms. It is also not in dispute that the respondent judgment-debtors did not act in terms thereof. An executing court, it is well known, cannot go behind the decree. It has no jurisdiction to modify a decree. It must execute the decree as it is. A default clause contained in a compromise decree even*

otherwise would not be considered to be penal in nature so as to attract the provisions of Section 74 of the Contract Act."

21. As per the judgment cited by learned senior counsel for the petitioners-judgment debtors in ***Brakewel Automotive Components (India) Private Limited's*** case (supra), it has been held that the decree is inexecutable only where it suffers from jurisdictional error/infirmity or is void and nullity, apart from the ground that decree is incapable of execution under law. The relevant paras of the judgment read as under:-

"20. It is no longer res integra that an Executing Court can neither travel behind the decree nor sit in appeal over the same or pass any order jeopardizing the rights of the parties thereunder. It is only in the limited cases where the decree is by a court lacking inherent jurisdiction or is a nullity that the same is rendered non est and is thus inexecutable. An erroneous decree cannot be equaled with one which is a nullity. There are no intervening developments as well as to render the decree inexecutable.

21. As it is, Section 47 of the Code mandates determination by an executing court, questions arising between the parties or their representatives relating to the execution, discharge or satisfaction of the decree and does not contemplate any adjudication beyond the same. A decree of court of law being sacrosanct in nature, the execution thereof ought not to be thwarted on mere asking and on untenable and purported grounds having no bearing on the validity or the executability thereof.

22. Judicial precedents to the effect that the purview of scrutiny under Section 47 of the Code qua a decree is limited to objections to its executability on the ground of jurisdictional infirmity or voidness are plethoric. This Court, amongst others in Vasudev Dhanjibhai Modi vs. Rajabhai Abdul Rehman in essence enunciated that only a decree which is a nullity can be the subject matter of objection

under Section 47 of the Code and not one which is erroneous either in law or on facts. The following extract from this decision seems apt: (SCC pp.672-73, paras 6-7)

> *"6. A Court executing a decree cannot go behind the decree between the parties or their representatives; it must take the decree according to its tenor, and cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties.*
>
> *7. When a decree which is a nullity, for instance, where it is passed without bringing the legal representatives on the record of a person who was dead at the date of the decree, or against a ruling prince without a certificate, is sought to be executed an objection in that behalf may be raised in a proceeding for execution. Again, when the decree is made by a Court which has no inherent jurisdiction to make it, objection as to its validity may be raised in an execution proceeding if the objection appears on the face of the record: where the objection as to the jurisdiction of the Court to pass the decree does not appear on the face of the record and requires examination of the questions raised and decided at the trial or which could have been but have not been raised, the executing Court will have no jurisdiction to entertain an objection as to the validity of the decree even on the ground of absence of jurisdiction."*

23. Though this view has echoed time out of number in similar pronouncements of this Court, in Dhurandhar Prasad Singh vs. Jai Prakash University, while dwelling on the scope of Section 47 of the Code, it was ruled that the powers of the court thereunder are quite different and much narrower than those in appeal/revision or review. It was reiterated that the exercise of power under Section 47 of the Code is microscopic and lies in a very narrow inspection hole and an executing court can allow objection to the executabilty of the decree if it is found that the same is void ab initio and is a nullity, apart from the ground that it is not capable of execution under the law, either because the same was passed in ignorance of such provision of law or the law was promulgated making a decree inexecutable after its passing. None of the above eventualities as recognised in law for rendering a decree inexecutable, exists in the case in hand. For obvious reasons, we do not wish to burden this

> *adjudication by multiplying the decisions favouring the same view.*
>
> *24. Having regard to the contextual facts and the objections raised by the respondent, we are of the unhesitant opinion that no case has been made out to entertain the remonstrances against the decree or the application under Section 47 CPC. Both the Executing Court and the High Court, in our comprehension, have not only erred in construing the scope and ambit of scrutiny under Section 47 CPC, but have also overlooked the fact that the decree does not suffer either from any jurisdictional error or is otherwise invalid in law. The objections to the execution petition as well as to the application under Section 47 CPC filed by the respondent do not either disclose any substantial defence to the decree or testify the same to be suffering from any jurisdictional infirmity or invalidity. These are therefore rejected."*

22. Even in the recent judgment, the Hon'ble Supreme Court in **Maurice W. Innis** vs. **Lily Kazrooni @ Lily Arif Shaikh**, 2026 INSC 340 has held that the executing Court cannot go behind the decree.

23. Learned senior counsel representing the petitioners-judgment debtors while placing reliance upon the judgment of the Hon'ble Supreme Court in ***P.R. Selvam Alagappan's*** case (supra), had laid emphasis on para 22. He contended that since the decree is incapable of execution under law, the learned executing Court has erred while issuing the warrant of possession. However, the said contention cannot be accepted for the reason that the judgment debtors have preferred the Civil Suit which is pending adjudication before the Court. As already noticed above, the judgment has been

passed by the trial Court on 09.01.1978 and the judgment debtors feeling aggrieved by the said judgment had initially preferred the appeal before the learned Single Judge of Punjab and Haryana High Court, which was dismissed and thereafter in Letters Patent Appeal, the judgment passed by the learned Single Judge was affirmed by the Division Bench of Punjab and Haryana High Court on 02.08.2005 and more than 21 years have elapsed and the decree holders are unable to reap the fruits of the decree, which has attained finality.

24. Learned senior counsel had further submitted that since as per the judgment passed by the Hon'ble Supreme Court in ***Ashwani Kumar's*** case (supra), the judgment passed by the Full Bench of this Court in ***Rajkumar Rajindra Singh's*** case (supra) has been overruled, the predecessor-in-interest of the decree holders was not entitled to get any land and the predecessor-in-interest of the judgment debtors, namely, Shri Abhay Chand, being the son of late Shri Ram Chand, was entitled to one unit and thus the decree passed by the learned trial Court is not executable. However, the said plea cannot be accepted for the reason that the judgment debtors had raised the said plea in the Letters Patent Appeal before the Division Bench of the Punjab and Haryana High Court, which was not accepted and the appeal was dismissed on 02.08.2005.It is apt to take note of the fact that Ram Chand had executed the Will in favour

of Bimla Wati dated 29.01.1969, which was upheld and the Will allegedly executed by Ram Chand in favour of Abhay Chand was held to be forged document and the suit filed by Bimla Wati was decreed and she was granted the possession of the suit land and the house. Since the judgment debtors were also placing reliance on the Will executed by Ram Chand in favour of Abhay Chand dated 06.03.1974 which has been held to be not genuine Will, the contention raised by the senior counsel for the judgment debtors that the land was not in the hands of Ram Chand falls to ground.

25. Learned senior counsel for the judgment debtors argued that since the judgment and decree is nullity, it cannot be executed. However, he was unable to satisfy the Court that how the decree is nullity. The trial Court, who had the jurisdiction to try the suit had decreed the suit filed by the predecessor-in-interest of the decree holders and judgment debtors had challenged the decree by preferring an appeal before the learned Single Judge of the Punjab and Haryana High Court, which was dismissed and thereafter, the Letters Patent Appeal preferred by the judgment debtors was also dismissed and thus, the plea taken that the judgment and decree passed by the trial Court is nullity is without any substance and hence rejected.

26. Learned senior counsel for the judgment debtors also argued that all the points raised are to be decided in the execution petition. It is relevant to note that the judgment debtors have preferred a Civil Suit challenging the decree under execution and have taken a plea of adverse possession. The executing Court has considered the objections and has rightly rejected the same while holding that it cannot go behind the decree and as such, no illegality has been committed by the executing Court.

27. Learned senior counsel for the judgment debtors also argued that since the decree holders have not impleaded the Government as party in the execution petition, the order passed by the executing Court is bad under law. He argued that the surplus land was vested with the Government and, therefore, the Government was necessary party. However, the said contention cannot be accepted for the reason that the executing Court has to execute the decree passed between the parties in the *lis* before the trial Court. Since the Government was not party in the Civil Suit, the decree holders were not under obligation to implead the Government as party in the execution petition and thus, the objections raised by the learned senior counsel is rejected.

28. Learned senior counsel for the judgment debtors also argued that since One Unit was to be given to Abhay Chand, the Will

could not have been executed by Ram Chand, who was not the owner of the land. However, the said objection is rejected for the reason that the plea taken by the judgment debtors was also raised in the Letters Patent Appeal, but the same was rejected and thus, no illegality has been committed by the executing Court while passing the order under challenge.

29. Learned senior counsel for the judgment debtors also argued that since the orders passed by the statutory authorities are under challenge, the executing Court should have restrained its hands not to proceed with the matter. However, the said contention cannot be accepted for the reason that the decree dated 09.01.1978 which has been passed in favour of the predecessor-in-interest of decree holders has not been executed till date and more than 48 years have elapsed. The judgment debtors have tried their best to delay the execution of the decree. Even after dismissal of their Letters Patent Appeal on 02.08.2005, they preferred a Civil Suit questioning the judgment and decree and have now taken the plea that they have become the owners by way of adverse possession. Once the judgment and decree has been affirmed in the Letters Patent Appeal on 02.08.2005, the executing Court cannot stay its hands to see the outcome of the proceedings pending before the statutory authorities and it has rightly proceeded further with the

execution proceedings and no illegality has been committed by it while passing the order.

30. Learned senior counsel for the judgment debtors also argued that since the land is not identifiable, the decree has become inexecutable. However, the said contention cannot be accepted for the reason that the trial Court had decreed the suit, of the land, which was mentioned in the plaint and the executing Court has ordered the Bailiff to handover the vacant and peaceful possession of the suit land, which is described in the plaint and thus the said objection raised by the judgment debtors is not sustainable and hence rejected.

31. Learned senior counsel representing the judgment debtors had argued that Bimla Wati was not declared as owner and until and unless she is declared owner, the possession could not have been ordered to be delivered to the decree holders. However, the said contention cannot be accepted for the reason that the trial court had passed the decree for possession of the suit land and the executing court is under obligation to execute the decree and while passing the order thereby delivering the possession to the decree holders, it has not committed any illegality or irregularity. The objections preferred by the judgment debtors are only with a view to delay the execution of the decree, which has been passed on

09.01.1978 and the judgment debtors had laid challenge to the said decree and they had lost their battle, when the Letters Patent Appeal preferred by them against the judgment passed by the learned Single Judge, who had affirmed the findings returned by the learned trial Court has been dismissed on 02.08.2005 and, therefore, this Court while exercising the revisional jurisdiction cannot tinker with the well-reasoned order passed by the learned executing Court.

32. Resultantly, in view of the observations made hereinabove, I do not find any merit in the present revision petition and the same is accordingly dismissed. However, there shall be no order as to costs. Pending applications, if any, also stands disposed of.

(**Jiya Lal Bhardwaj**)
Judge

30th October, 2026
(naveen)