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

CR-162-2020

Date of decision: 18.02.2026

Ravinder Singh

...Petitioner

Versus

Brij Lal (deceased) through his LR

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Munish Mittal, Advocate for the petitioner.

Mr. Jatinder Nagpal, Advocate for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 20.11.2019 (Annexure P-5) passed by the Civil Judge (Junior Division), Karnal in Execution Petition No.315 of 2014 titled as Brij Lal Vs. Ravinder Singh, whereby order for warrant of possession of the suit property has been issued.

ARGUMENTS ON BEHALF OF THE PETITIONER:-

2. Learned counsel for the petitioner has submitted that the suit for permanent injunction was filed by respondent-Brij Lal on 15.06.2012 (since deceased and now being represented by his LR) and it is the case of the petitioner that the petitioner has already constructed shop in the suit land. It is submitted that decree for injunction was passed on 20.10.2014 but prior to the passing of the said decree, construction of the shop had already been completed by the petitioner. It is argued that in the



said circumstances, while filing an execution petition under Order 21 Rule 32 of CPC read with Section 151 of CPC, the respondent cannot seek possession or demolition of the shop which was already in existence prior to the passing of the judgment and decree dated 20.10.2014. It is submitted that the objections filed by the petitioner are meritorious and impugned order dismissing the said objections be set aside and the execution petition filed by the respondent be dismissed.

ARGUMENTS ON BEHALF OF RESPONDENT:-

3. Learned counsel for the respondent, on the other hand, has argued that the trial Court vide judgment dated 20.10.2014, after taking into consideration all the pleas raised by the petitioner including the plea of there being a construction of shop raised by the petitioner, had decreed the suit of the respondent-Brij Lal and had specifically restrained the petitioner from interfering in the possession of the plaintiff over the suit land by way of raising any construction or in any other manner until the suit property was partitioned by metes and bounds. It is submitted that it is not disputed that till date, the said suit property has not been partitioned by metes and bounds. It is further argued that the judgment of the trial Court was upheld by the First Appellate Court vide judgment dated 31.05.2018 and no further appeal has been filed by the petitioner and thus, the same has attained finality. It is further argued that the Executing Court cannot go beyond the decree and it is the duty of the Executing Court to implement the decree and thus, the impugned order is in accordance with law and deserves to be upheld.

**ANALYSIS AND FINDINGS:-**

4. This Court has heard learned counsel for the parties and has perused the paper book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

5. It is not in dispute that the respondent-Brij Lal, now represented by his LR, had filed the suit for permanent injunction on 15.06.2012 and the said suit was decreed on 20.10.2014. A copy of the said judgment and decree has been annexed as Annexure P-1 with the paper book. A perusal of the said judgment would show that it was the case of the said Brij Lal-plaintiff-present respondent that he was in exclusive, independent possession of the suit property. In para 3, the plea of the present petitioner was noticed by the trial Court to the effect that when the petitioner had started raising construction of a shop over the suit land, the plaintiff/present respondent-Brij Lal filed the present suit and that the petitioner had raised the construction of a shop on the said land. The trial Court after considering the pleadings of both the parties as well as documents on record had observed that from the documents, it was apparent that the plaintiff-Brij Lal was in exclusive possession of the suit land and that there was nothing on record to show that the vendor of the defendant namely Om Parkash was in exclusive possession of any specific portion of the joint land and thus, the said vendor-Om Parkash was only competent to alienate his undivided share in the joint property



and the present petitioner/defendant had only got a right to seek partition. It was further importantly observed that in case possession of any specific portion of the joint property had been taken by the present petitioner/defendant by way of raising any construction thereon, then, the same could not be termed as a legal possession. Relevant portion of the said judgment is reproduced hereinbelow:-

“..... Defendant Ravinder Singh has been shown as owner to the extent of 5/756 share of the suit land measuring 1K-9M. This land has been purchased by the defendant by way of a sale deed (Ex.D12) from one Om Parkash S/o Rati Ram. There is nothing on record to show that at the time of execution of the said sale deed, vendor Om Parkash was in exclusive possession of any specific portion of the joint land. That being so, he was only competent to alienate his undivided share in the joint property and the vendee (defendant) has only got a right to seek partition of the property. The possession of any specific portion of the joint property even if taken by the defendant by way of raising any construction thereon cannot be termed as a legal possession. For this view reliance can be placed on the law laid down by the Hon'ble Supreme Court of India in the case of Ramdas Versus Sitabai & Ors., 2009(4) C.C.C. 259(S.C.) and of the Hon'ble Punjab & Haryana High Court in the case of Ram Murti Sharma & Another Versus Prem Kumar & Others, 2011(2) C.C.C 570(P&H)..... There is, therefore, no merit in the contention of the defendant that he having raised construction on the land in dispute, the suit is rendered infructuous.....”

6. The trial Court, after considering all the said aspects, had



decreed the suit of the plaintiff and had granted the following relief:-

“Relief

As a sequel to my findings recorded here-in-above, suit of the plaintiff succeeds and the same is decreed with costs. A decree for permanent injunction is accordingly passed in favour of the plaintiff and against the defendant restraining him from interfering in the possession of the plaintiff over the suit property by way of raising any construction or in any other manner until the suit property is partitioned by metes and bounds. Decree sheet be drawn and file, after due compliance, be consigned to records.

Pronounced

Sd/-

(Vinod Kumar)

Civil Judge(Jr.Divn.)

Karnal. 20.10.2014”

A perusal of the above would show that the argument which the petitioner is now seeking to raise during the execution proceedings, was duly considered and after considering the same, the defendant/petitioner was restrained from interfering in possession of the plaintiff over the suit property by way of raising any construction or in any other manner. It is not disputed before this Court that no suit for partition has been filed, much less, decreed till date. Admittedly, appeal against the said judgment and decree was dismissed by the First Appellate Court on 31.05.2018. It is also not in dispute that no further Regular Second Appeal has been filed and thus, the judgment of the trial Court has attained finality.

7. To enforce the said decree of injunction, the respondent had



filed an execution petition under Order 21 Rule 32 CPC read with Section 151 CPC. In the execution proceedings, the petitioner had filed objections which were dismissed by the Executing Court vide order dated 20.11.2019 by observing that the trial Court had given a finding that the possession of any specific portion even if taken by the petitioner-defendant by raising construction cannot be termed as a legal possession and had observed that, thus, as per the same, it was apparent that the construction raised by the Judgment Debtor was illegal and the objection raised on the basis of prior construction was not sustainable.

8. It is a matter of settled law that it is the duty of the Executing Court to execute the decree and under provision of Order 21 Rule 32 CPC to enforce the decree. After having suffered the abovesaid decree, the petitioner, who is the Judgment Debtor, is creating hurdles in the enforcement of the decree and in the execution proceedings by raising pleas which have already been considered and rejected by the trial Court vide judgment dated 20.10.2014, which judgment has attained finality. It is further settled law that the Executing Court cannot go beyond the decree.

9. The Hon'ble Supreme Court in the case of **“Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil”**, reported as **(2010) 8 Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of



appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

10. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

11. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

18.02.2026

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No