



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CR-11625-2018 (O&M)

Date of Decision: 20.04.2026

Hari Ram deceased through LRs

...Petitioner

V/s

Hari Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Johan Kumar, Advocate, for the petitioner.

None for respondents No.1 and 2.

VIKRAM AGGARWAL, J (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 13.09.2018 (Annexure P-7) passed by the Court of Civil Judge (Jr. Divn.), Hodal, vide which objections filed by the petitioner/judgment debtor (defendants) were dismissed. Challenge has also been laid to orders dated 12.10.2018 and 04.12.2018 (Annexures P-8 and P-9), vide which warrants of possession with police help were issued.

2. A suit for permanent injunction was filed by the respondents/decreed-holders (Hari Singh and others) against one Tara Chand and Hari Ram (the present petitioners are legal heirs of Hari Ram). The respondents/decreed-holders claimed to be in possession of the suit property from the time of their ancestors. It was alleged that the defendant Tara Chand and Hari Ram were interfering in their possession and were trying to dispossess them.

3. The suit was dismissed vide judgment and decree dated 11.01.2007 (Annexure P-1) passed by the Court of Additional Civil Judge (Sr.



Divn.), Palwal. The appeal filed against the said decision was partly allowed vide judgment and decree dated 02.05.2008 (Annexure P-2) passed by the Additional District Judge, Faridabad and the defendants were restrained from dispossessing the plaintiffs from the suit property without following the due course of law.

4. Regular Second Appeal No.2580-2008 instituted by the defendants was dismissed on 02.12.2010 (Annexure P-3). SLP against the said decision is also stated to have been dismissed.

5. An execution petition was filed by the decree-holders which was withdrawn on 26.07.2017 (Annexure P-4).

6. Thereafter, another execution petition (Annexure P-5) was instituted claiming that the decree-holders had been dispossessed from the suit property. Accordingly, execution of the decree was prayed for. Objections (Annexure P-6) were submitted by the judgment-debtors primarily stating that the suit was collusive and that the previous execution petition had been withdrawn.

7. The said objections were dismissed vide order dated 13.09.2018, followed by orders dated 12.10.2018 and 04.12.2018, vide which warrants of possession were issued.

8. I have heard learned counsel for the petitioner.

9. Learned counsel submits that the executing court gravely erred in dismissing the objections and allowing the execution petition by way of restoration of possession without any details of dispossession having been given. It has also been submitted that the previous execution petition had been withdrawn and, therefore, the subsequent execution petition without any fresh cause of action, could not have been filed.

10. As per the report of the Registry, notice issued to respondents No.3(i) to 3(vi) have been received back served through respondent No.3(i).



However, no one has put in appearance. Respondents No.3(i) to 3(vi) are, therefore, proceeded against *ex parte*.

10.1 No one has put in appearance on behalf of respondents No.1 and 2 as well as a result of which, respondents No.1 and 2 are also proceeded against *ex parte*.

11. I have considered the submissions made by learned counsel for the petitioner.

12. Concededly, the first appellate Court had partly decreed the suit and had restrained the defendants from interfering in the possession of the plaintiffs over the suit property except in due course of law. The regular second appeal and the special leave petition were thereafter dismissed. Further, it is an admitted fact that earlier also an execution application was filed which was withdrawn 26.07.2017.

13. Shortly thereafter, another execution petition was filed alleging dispossession from the suit property in 2013. Strangely, no date or other details were given. The judgment-debtors had also filed objections on the ground that the suit was collusive and further that the first execution petition had been withdrawn. It is, therefore, emerges that pleadings from both sides were poor and inadequate.

14. Under the circumstances, it was for the executing Court to have examined the matter as per law. In so far as the objection raised by the judgment-debtors that the decree was collusive is concerned, the same was rightly rejected by the executing Court because an executing Court cannot go beyond the decree. However, the executing Court blindly accepted the version of the decree-holders that they had been dispossessed. The Court did not consider that no date or month of dispossession was given. The executing Court did not deem it appropriate to even appoint a local commissioner to see



as to who was in possession. It simply took the averments in the execution petition on their face value and allowed the execution petition.

15. In the considered opinion of this Court, the executing Court should have proceeded in accordance with law and should have recorded its reasons for arriving at the conclusion that the decree-holders had been dispossessed from the suit property. However, nothing of the kind was done. For the said reason alone, the impugned order is not sustainable.

16. That being so, the instant revision petition is allowed. The impugned order dated 13.09.2018 (Annexure P-7) passed by the Court of Civil Judge (Jr. Divn.), Hodal, vide which objections filed by the petitioner/judgment-debtors were dismissed and consequent orders dated 12.10.2018 and 04.12.2018 (Annexures P-8 and P-9), vide which warrants of possession were issued are set aside.

Pending application(s), if any, stand(s) disposed of accordingly.

(VIKRAM AGGARWAL)
JUDGE

April 20, 2026

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No