(1998) 118 PLR 651 : (1998) 1 RCR(Civil) 687

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1410 of 1997 and Civil Miscellaneous No. 3853-CII of 1997

Santa Singh and Others		APPELLANT
	Vs	
Darshan Singh and Others		RESPONDENT

Date of Decision: Dec. 9, 1997

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Order 21 Rule 35, Order 21 Rule 36, 47

Citation: (1998) 118 PLR 651 : (1998) 1 RCR(Civil) 687

Hon'ble Judges: Sat Pal, J

Bench: Single Bench

Advocate: K.K. Goel, for the Appellant; S.P. Gupta and K.G. Shehajpal, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Sat Pal, J.
This petition is directed against the order dated 18th February, 1997, passed by the Civil Judge, Junior Division, Bathinda. By

this order, the learned Civil Judge has dismissed three applications dated 28th January, 1997, 1st February, 1997 and 11th February, 1997, filed

by the judgment debtors/objector Nos.2 to 5 which contained objections. If may be relevant to note here that the said judgment debtors had

earlier also filed objections in the execution proceedings and all those objections were dismissed by the executing Court vide order dated 29th

March, 1996. The aforesaid order dated 29th March, 1996, passed by the learned Executing Court was challenged by J.D. Santa Singh, in this

Court in Civil Revision No. 2500 of 1996 (Santa Singh v. Suhhdev Singh and Ors.) which was dismissed by this Court vide judgment dated 9th

September, 1996.

2. Faced with the above situation, Shri Goel, learned counsel appearing on behalf of the petitioner/Judgment Debtors submitted that the judgment

debtors in the earlier objections, had hot taken objection that J.D. Santa Singh had constructed, residential house on the land under decree and the

learned Executing Court could not issue warrants of possession without giving an opportunity to the Judgment Debtors to remove construction

even if the construction was illegal. In support of his submission, he placed reliance on a judgment of this Court in Amarkuldip Singh and Another

Vs. Baru Ram and Others, .

3. Shri Gupta, learned senior counsel appearing on behalf of the respondent, however, submits that the contention raised by the learned counsel of

the petitioner was raised in Civil Revision No. 2500 of 1996 also and the said contention was rejected by this Court vide judgment dated 9th

September, 1996.

4. After hearing the learned counsel, for the parties and having perused the judgment dated 9th September, 1996, passed by this Court in Civil

Revision No. 2500 of 1996, I find that the objection was raised with regard to construction of residential house on the land under decree in that

case also and the said objection was rejected. Even otherwise, the petitioner was not required to be given any opportunity for removing illegal

construction on the land under decree in the facts and circumstances of this case. According to the case of the petitioner himself, he had purchased

the suit land during the pendency of the suit and thereafter he had constructed a residential house on the land under decree. If any construction is

made on the property pending the suit, the decree holder is not bound by any such construction. The view I have taken, finds full support from the

judgment of the Supreme Court in B. Gangadhar Vs. B.G. Rajalingam, .

5. For the reasons recorded herein above, I do not find any merit in this petition and the same is dismissed.