

(1989) 04 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 2304 of 1988

Jiwan Dass

APPELLANT

Vs

Bhoja Ram

RESPONDENT

Date of Decision: April 6, 1989

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Judgement

J.V. Gupta, J.

This petition is directed against the order of the executing court dated 16th June, 1988, whereby the application filed by the decree-holder Jiwan Dass was dismissed.

2. Bhoja Ram had a decree against Attar Chand for specific performance of the agreement of sale. Attar Chand died after he filed second appeal in the High Court. His son Jiwan Dass petitioner was impleaded as his legal representative in the said appeal. When the suit for specific performance was pending, the petitioner Jiwan Dass had filed a suit against his father Attar Chand for declaration to the effect that he was the owner-in-possession" of the house in dispute. The said suit was decreed on 25th July, 1983. In the execution proceedings, the decree holder deposited the sale price and Jiwan Dass claimed the said amount being an heir of Attar Chand on the strength of the decree in his favour dated 25th July, 1983. The executing Court, vide impugned order, directed that the sale consideration be disbursed to all the legal heirs of Attar Chand or the persons in whose favour succession certificate is issued by a competent court. This approach of the executing Court is misconceived. No succession certificate is required for the purpose. The petitioner Jiwan Dass had already obtained the decree against his father Attar Chand, a copy of which according to him was produced in the executing court. According to the petitioner, it is only the decree holder who is contesting his application and not the other legal heirs who are his brother and sisters. In these circumstances, this petition succeeds, the impugned order is set aside and the executing court shall consider the case afresh, taking into account the judgment and decree in favour of the petitioner

Jiwan Dass against his father Attar Chand.

3. The petitioner has been directed to appear in the Executing Court on 4.5.1989.