
Jiwan Dass Vs Bhoja Ram

Civil Revision No. 2304 of 1988

Court: High Court Of Punjab And Haryana At Chandigarh

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.