

(2016) 05 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : CR No.3225 of 2016(O&M)

Surinder Kumar

APPELLANT

Vs

Punjab Waqf Board, Chandigarh

RESPONDENT

Date of Decision : 26-05-2016

Acts Referred:

Citation : (2016) 05 P&H CK 0028

Hon'ble Judges : Darshan Singh, J.

Bench : Single Bench

Advocate : Mr. S.C. Arora, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Darshan Singh, J. (Oral) - The present revision petition has been preferred against the order dated 26.04.2016 (Annexure P-1) passed by the learned Additional District Judge, Sri Muktsar Sahib, vide which the application moved by the petitioner for not issuing the warrants of possession against him with respect to the property bearing No. BII679, which is in possession of Davinder Singh son of Amar Singh, resident of Gali no.5, Patti Tambu Sahib, near Darbar Sahib, Sri Muktsar Sahib, has been dismissed.

2. The petitioner-JD Surinder Kumar has filed the application that civil suit bearing No. 34 of 15.09.2006 was decreed against him on 10.03.2008. The execution petition has been filed to execute the said decree. The decree has been passed with respect to property no. BII679, which is in possession of one Davinder Singh as per the information supplied to him under the provisions of Right to Information Act, 2005 (for short "RTI" Act) by Municipal Council, Sri Muktsar Sahib.

3. The said application has been dismissed by the learned Additional District Judge, Sri Muktsar Sahib with costs of Rs. 5000/-.

4. Learned counsel for the petitioner contended that the decree has been passed

with respect to property bearing no. BII 679. But, as per the information supplied to the petitioner by Municipal Council, Sri Muktsar Sahib under the provisions of RTI Act, the said property is in possession of one Davinder Singh and not in possession of the petitioner-JD. Thus, he contended that the decree in question is in-executable. Under the garb of this decree, the DH wants to dispossess the petitioner-JD from his property. Thus, he contended that the impugned order is illegal.

5. I have duly considered the aforesaid contentions.

6. Annexure P-2 is the copy of the judgment passed by the learned Additional District Judge, Faridkot exercising the powers of the Tribunal under the Waqf Act, 1995. The respondent-Punjab Waqf Board has filed the suit for possession against the petitioner for possession by way of ejectment of the petitioner-JD from the building measuring 300 sq. yards, which is part of the Mosque building bearing MC No. BII679. It appears from the copy of the judgment that no dispute was raised by the petitioner with respect to the identity of the suit property. Rather, he has pleaded that property in dispute was given to him on license and he use to pay Rs. 250/- per year to the employees of Punjab Waqf Board, who had failed to issue the receipts. He has further categorically pleaded that the said property is being used by him purely for residential purpose and not as a godown. So, no dispute has been raised by the petitioner with respect to the identity of the property in dispute.

7. This fact is not disputed that the matter has been decided against the petitioner in the suit up to the Hon'ble Apex Court. Thereafter, various objection petitions have been filed by the petitioner and his family members. In the present application, the petitioner has alleged that one Davinder Singh son of Amar Singh is in possession of the property in dispute. It is an admitted fact that said Davinder Singh has not raised any objection with respect to execution of the decree. It is settled principle of law that the Executing Court cannot go behind the decree. When, there was no dispute with respect to the identity of the suit property in the suit, the petitioner is estopped to raise this plea in the execution petition.

8. The only intention of the petitioner to move this frivolous application was to prolong the proceedings of the execution petition. The impugned order shows that the petitioner has earlier filed the objections, which were dismissed by the learned Executing Court vide order dated 30.09.2014. The civil revision no.7113 of 2014 filed against that order has also been decided on 16.10.2014. Thereafter, his wife Veena Rani and his son Sunny Bansal also filed the objection petitions, which were also decided by the learned Executing Court on 30.09.2014 and 01.09.2015 respectively. Civil revision bearing no. 1614 of 2015 was decided on 04.03.2015. Another revision petition bearing no. CR No. 5880 of 2015 was decided on 09.09.2015. Sunny Bansal, the son of the petitioner is a practising lawyer in the Courts at Sri Muktsar Sahib. He has also moved three transfer applications before the learned District Judge, Sri Muktsar Sahib for transfer of

the execution petition. His transfer application was dismissed by imposing Rs. 2000/- as costs vide order dated 12.04.2016 by the learned District Judge. This background shows that the petitioner and his family members are moving objection petitions/applications one after other with ulterior motive to linger on the proceedings of the execution petition.

9. Thus, keeping in view my aforesaid discussion, there is no merit in the present revision petition and the same is hereby dismissed with costs of Rs. 15000/- to be deposited by the petitioner-JD with the District Legal Services Authority, Sri Muktsar Sahib.