

3316093

2019 PLRonline 3305

PUNJAB AND HARYANA HIGH COURT

JUSTICE RAJ MOHAN SINGH

VEERO DEVI v. BALLA RAM

Civil Revision No.8336 of 2018

14.01.2019

CPC Order 21 Rule 32 - Application for taking lawful action against the respondents - Dismissed - Petitioner/decreed holder is owner in possession of the land - Suit for permanent injunction filed by her was decreed - Ownership of BR in the adjoining property to the suit property was noticed by the executing Court - In a suit titled filed by BR for permanent injunction, husband of the petitioner was also restrained from interfering in the land of the present judgment-debtors - Both the parties have staked their claim in respect of their respective land - Decree-holder has not got conducted any demarcation to prove encroachment on behalf of the judgment-debtors on any part of the disputed land - No documentary evidence in the aforesaid context has been proved on record, nor any complaint was ever filed by the petitioner before the Police in respect of alleged encroachment done by the respondents - No indulgence can be granted in favour of the petitioner in terms of Order 21 Rule 32 read with Section 151 CPC - Petitioner may avail her legal remedy in accordance with law - Revision dismissed.

Mr. N.S. Sodhi, Advocate for the petitioner.

RAJ MOHAN SINGH, J. (Oral) - This revision petition has been preferred against the order dated 24.01.2018 passed by the executing Court vide which the application filed under Order 21 Rule 32 CPC for taking lawful action against the respondents was dismissed.

[2]. Perusal of the record would show that the petitioner/decreed holder is owner in possession of Khasra No.138//18/2 (0-16). The suit for permanent injunction filed by her was decreed. The ownership of Balla Ram in Khasra No.138//18/1 min (1-8) in the adjoining property to the suit property was noticed by the executing Court. Perusal of Ex.R-1 and Ex.R-2 would show that in a suit titled 'Balla Ram vs. Gammi Ram', filed by Balla Ram for permanent injunction, husband of the petitioner was also restrained from interfering in the land of the present judgment-debtors.

[3]. Evidently, both the parties have staked their claim in respect of their respective land. Petitioner is owner in possession of Khasra No.138//18/2 (0-16), whereas Balla Ram/respondent No.1 is owner in possession of Khasra No.138//18/1 min (1-8).

[4]. Admittedly the decree-holder has not got conducted any demarcation to prove encroachment on behalf of the judgment-debtors on any part of Khasra No.138//18/2 (0-16). It is also an admitted fact that the land belonging to Balla Ram is adjoining to the suit property which is comprised in Khasra No.138//18/1 min (1-8). No documentary evidence in the aforesaid context has been proved on record, nor any complaint was ever filed by the petitioner before the Police in respect of alleged encroachment done by the respondents.

[5]. In view of findings recorded by the executing Court on the aforesaid controversy, no indulgence can be granted in favour of the petitioner in terms of Order 21 Rule 32 read with Section 151 CPC. Petitioner may avail her legal remedy in accordance with law. This revision petition is accordingly dismissed.

SS