



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-5380-2024 (O&M)
Reserved on: 18.07.2025
Pronounced on : 26.08.2025

Jitender and another ...Petitioners

V/s

Mohinder Singh (deceased) through LRs and others ...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. V.K. Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Abhishek Shukla, Advocate, for the petitioners.

Mr. Sudhanshu Makkar, Advocate, for the respondents.

VIKRAM AGGARWAL, J

CM-22392-CII-2024

Prayer in the present application preferred under Section 151 CPC is for vacation of interim stay granted vide order dated 03.10.2024 and for placing on record order dated 11.11.2024 passed in CR-955-2024 and order dated 29.02.2024 passed in CR-7757-2024 as Annexures R-1 and R-2 respectively.

Since the main revision petition itself is being decided by order of even date passed in CR-5380-2024, the application for vacation of stay has been rendered infructuous and no further orders are required to be passed by this Court.

However, copies of order dated 11.11.2024 passed in CR-955-2024 and order dated 29.02.2024 passed in CR-7757-2024 are ordered to be taken on record as Annexures R-1 and R-2 respectively.

The Registry is directed to tag the same at an appropriate place on the case file.

CR-5380-2024

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 10.09.2024 (Annexure P-20)



passed by the Court of Additional Civil Judge (Sr. Divn.), Bhiwani, vide which objections submitted by the petitioners-judgment debtors to the draft sale deed were dismissed.

2. The case has a chequered history. One Jorawar Singh was the owner in possession of the land measuring 173 kanals 4 marlas situated in Village Badesra, Tehsil Bawanikhera, District Bhiwani (fully described in the plaint), (hereinafter referred to as the “suit land”). He executed an agreement to sell on 05.10.1981 in favour of the plaintiffs (Mohinder Singh and others). The total sale consideration was fixed at Rs.3,38,450/-. Rs.1,08,450/- was paid as earnest money and the sale deed was to be executed by 15.06.1982. For, the sale deed was not executed, the plaintiffs instituted a suit for possession by way of specific performance of agreement to sell dated 05.10.1981. The suit was, however, dismissed vide judgment and decree dated 10.01.1990 passed by the Court of Sub-Judge, 1st Class, Bhiwani. An appeal was preferred against the said decision, which was allowed vide judgment and decree dated 17.08.1991 (Annexure P-3) passed by the Court of District Judge, Bhiwani. Regular Second Appeal No.2077-1991 preferred by the defendants was dismissed vide order dated 02.05.2018 (Annexure P-4). Special Leave to Appeal (C) No.17516-2018 preferred by the defendants against the said judgment passed by the High court was also dismissed vide order dated 06.05.2022 (Annexure P-5).

3. The matter having attained finality from the Supreme Court of India, the agony of the decree-holders started. The decree-holders are stated to have deposited the balance sale consideration in the treasury on 09.11.1991. The defendant (Jorawar Singh) expired during the pendency of the appeal and his legal representatives had been brought on record.



4. An execution petition was preferred by the decree-holders against the LRs of Jorawar Singh on 26.07.2018. This led to the filing of two objection petitions (Annexures P-8 and P-9) by the legal representatives of Jorawar Singh. Both objection petitions were dismissed vide order dated 20.07.2023 (Annexures P-10 and P-11).

5. Appeals were preferred against the said orders but were withdrawn on 19.01.2024 (Annexure P-13).

6. Thereafter, as is borne out from the record, CR-955-2024 was filed which was dismissed for non-prosecution vide order dated 11.11.2024 (Annexure R-1).

7. Vide order dated 03.10.2023 (Annexure P-14), the executing Court passed an order for sanction of mutation in favour of LRs of Jorawar Singh. Vide order dated 18.12.2023 (Annexure P-15), Reader of the Court was appointed as a local commissioner to get the proposed sale deed registered in favour of the decree-holders. This order was challenged by way of CR-7757-2023 by the LRs of Jorawar Singh, stating that they had not been given any opportunity to file objections against the proposed sale deed. This revision petition was disposed of vide order dated 29.02.2024 (Annexure R-2). Accordingly, objections dated 05.03.2024 (Annexure P-18) were submitted, which were dismissed by way of the impugned order dated 10.09.2024 (Annexure P-20), leading to the filing of the present revision petition.

8. Learned counsel for the parties were heard.

9. It was strenuously urged by Mr. V.K. Jindal, learned Senior Counsel representing the petitioners/objectors that the executing Court had gravely erred in dismissing the objection petition. It was submitted that it is settled law that if there are co-sharers in the suit land, the sale deed cannot



be executed without partition of the suit land. Learned Senior Counsel has referred to the draft sale deed and has submitted that a perusal of the same shows that the land is joint and the sale deed cannot be executed without partition. Learned Senior Counsel submitted that a decree of joint possession could have been passed, which was not done. Learned Senior Counsel also referred to the provisions of Order 21 Rules 34 and 35 CPC and submitted that the said provisions had not been complied with.

10. It was submitted by learned Senior Counsel that the sale deed, if executed, would be as regards a share or as regards a specific khasra number. Learned Senior Counsel submitted that the draft of the sale deed was to be finalized by the executing Court and in the absence of partition having taken place, the same was not possible.

11. Learned Senior Counsel referred to all orders which have been passed from time to time and assisted the Court as regards the timeline in the present case and submitted that the impugned order is not sustainable. In support of his contentions, learned Senior Counsel placed reliance upon in *Ram Chander Vs. Bhim Singh and others (and one connected case), 2008(3) RCR (Civil) 685, Sarla Vs. Financial Commissioner, Haryana and others, 2023 (2) RCR (Civil) 877, Lokesh and others Vs. Rameshwar Tyagi, 2018(1) RCR (Civil) 248 and Ramesh Chander Vs. Sarbati and others, 2016(1) Law Herald 756.*

12. *Per contra*, it was submitted by learned counsel representing the respondents that there is no illegality in the impugned order. It was submitted that revision petitions against dismissal of the previous objections were already dismissed meaning thereby that the matter had attained finality and the same cannot be permitted to be raised again. It was submitted that it was not a joint khewat at all and specific khasra numbers were mentioned in



the agreement to sell. Learned counsel submitted that no objection at any point of time was raised till the decision of the matter up to the Supreme Court of India and, therefore, it would now not be open to the petitioners to rake up the issue.

13. Learned counsel also referred to all documents/orders annexed with the revision petition and submitted that there is no illegality in the impugned order.

14. I have considered the submissions made by learned counsel for the parties.

15. It is a matter of grave concern that despite a matter having been finalized by the Supreme Court of India, the decree-holders have not been able to reap the benefits of the decree passed in their favour. As was noticed while detailing the facts of the case, the suit for specific performance having been dismissed, the plaintiffs preferred an appeal, which was allowed vide judgment and decree dated 17.08.1991. The defendants were called upon to execute the sale deed within a period of two months on receipt of the balance sale consideration. The regular second appeal was also dismissed on 02.05.2018 and the matter was finally closed by the Hon'ble Supreme Court of India on 06.05.2022. Thereafter, the battle started before the executing Court.

16. The objectors raised every possible objection, including the objection that the suit land was in a joint khata and, therefore, a sale deed could not be executed without the land being partitioned. Notably, this objection was never raised till the finalization of the matter from the Supreme Court of India. Even otherwise, specific khasra numbers were mentioned in the agreement to sell, which were accordingly mentioned in



the judgments and decrees also. The suit of the plaintiffs was decreed as prayed for. The prayer was as under:-

“Suit for possession by way of specific performance pertaining to the agricultural land comprised in Khasra no. 38//19 to 22(32-0), 72// 384 (1-0), 6, 788(24-0), 13 to 18 (48-0), 19(48-0), 19(8-0), 20(7-4), 21/2(6-0), 22 to 25 (32-0) situated in village Badesra, Tehsil Bawanikhera, District Bhiwani as per latest Jamabandi on the basis of agreement dated 05.10.1981 executed in favour of the plaintiff by the defendant no.1 and directing the defendants to get the sale deed executed and registered in favor of the plaintiff in respect of the land detailed, detailed above.

And in the alternative suit for recovery of Rs. 2,16,900/- particularized as below:-

Earnest money paid to the defendant vide agreement dated 05.10.1981:

Rs. 1,08,450.00

Compensation/damages: Rs. 1,08,450.00

Total: Rs. 2,16,900.00

and suit for declaration to the effect that the judgment and decree dated 28.09.1984 passed in Civil Suit no. 455 of 1981 entitled Jitender Kumar and others vs. Jorawar Singh by the Court of Sh. J.D. Chandna, Senior Sub Judge, Bhiwani, and the mutation judgment and decree in favour of the defendants no. 2 to 5, are wrong, against law and facts, inoperative, malafide, fraudulent, misrepresentation and not binding on the rights of the plaintiff and as such are liable to be set aside on the basis of all kinds of evidence both oral as well as documentary.”

17. The matter does not end here. Objections (Annexure P-8 and P-9) were filed, wherein apart from other objections, the objection that the land was a part of a joint khewat was also raised. In the objections (Annexure P-9), the following stand was also taken:-

“That the agreement to sell in question is also not enforceable, since judgment debtor-Jorawar was not entitled to alienate any specific property. It is settled proposition of law that a co-sharer can only transfer undivided share in the joint land and alienation, if any, is valid to his share alone. In pursuance to alleged agreement to sell in question no possession can be handed over to the applicants/ decree holders without any physical formal partition of undivided land by meets and bounds.”



18. These objections were dismissed vide two orders dated 20.07.2023 (Annexures P-10 and P-11). The relevant portion of the order Annexure P-10 is as under:-

“In present case, the objections regarding non tendering original copy of agreement to sell in main suit, removal of court guardian of LRs of Jorawar Singh, the right of Jorawar Singh to alienate the land, the question of continuous readiness and willingness of all plaintiffs to perform their part of agreement have already been decided by Learned Court in main suit. These pleas should have been taken by JD in main suit and same are not itself maintainable before executing court. Being executing court, this court cannot sit on merit of the case and cannot discuss the merits of main case in present petition because same have already been disposed of in main suit. The judgment and decree dated 17.08.1991 have been upheld by Hon'ble Supreme Court and now this court cannot re-open merits of the case. The continuous readiness and willingness of plaintiff/decree-holder is itself proved on record. The point of deposit of balance sale consideration has already been dealt in detail in my separate order of even date.

6. For sake of clarification, from report of treasury as well as from perusal of main case file, it is clear that decree-holder had complied Court order and deposited the balance consideration amount well within time. Hence, plea as taken by applicant are devoid of merits.

7. In view of above discussion and in interest of justice, this court is of considered opinion that objections moved by JD/applicant are not maintainable in eyes of law and same stands dismissed.”

19. It is, therefore, evident that the said objections were raised earlier also and were rejected. What has not been disclosed by the objectors in the instant revision petition but has been disclosed by the decree-holders in the application for vacation of stay is that both orders dated 20.07.2023 were challenged by way of CR-955-2024, which was dismissed for non-prosecution vide order dated 11.11.2024 (Annexure R-1), which reads as under:-

“123)

CR-955-2024

Date of Decision:11.11.2024

Jitender and another

...Petitioners



Versus

Mohinder Singh deceased through his LRs and ors..Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: None for the petitioner.

VIKAS BAHL, J. (ORAL)

- 1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 20.07.2023 (Annexure P-8) and order dated 20.07.2023 (Annexure P-9) passed by the Additional Civil Judge (Senior Division), Bhiwani in case Execution Petition No.173/2018 titled as 'Mohinder Singh (since deceased) through his legal heirs Vs. Jorawar Singh (since deceased) through his legal heirs etc', whereby the objections of the petitioners have been dismissed.*
- 2. Nobody had appeared on behalf of the petitioners on 25.10.2024. Today again, no one has appeared on behalf of the petitioners although the matter has been called twice.*
- 3. Dismissed for non-prosecution.*
- 4. Liberty is granted to the petitioners to move an application for restoration of the present petition in case any cause survives.”*

20. The petitioners had earlier also (before filing the aforesaid revision petition i.e. CR-955-2024) tried their luck when the draft sale deed was ordered to be registered. They knocked the doors of this Court by way of CR-7757-2023 stating that no opportunity of filing of objections had been given. This revision petition was disposed of on February 29, 2024 (Annexure R-2) and the executing Court was directed to grant one opportunity to the JDs to file objections to the proposed/draft sale deed.

21. This gave the JDs another opportunity to reopen the issue and a part from filing the objections to the draft sale deed, they raised all points which had been raised earlier.

22. The executing Court rightly dismissed the objection petitions. I have found absolutely no illegality in the said order warranting interference.



As mentioned earlier, the matter has been finalized up to the Hon'ble Apex Court. No objections as regards the land being joint was ever raised. Even otherwise, specific khasra numbers were mentioned in the agreement to sell and in the plaint, which was eventually decreed. A perusal of the orders passed from time to time, the applications and the objections moved from time to time and other documents on record, it becomes manifestly clear that the petitioners are simply abusing the process of law with a view to buy the time.

23. I have gone through the judgments relied upon by learned Senior Counsel referred to above. The said judgments are regarding alienation of joint property. There is absolutely no dispute in the ratio laid down in the said judgments. However, they would not apply to the facts of the present case, which have been noticed in the preceding paragraphs. The judgments, therefore, do not come to the aid of the petitioners.

24. In view of the aforesaid, the revision petition is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 26.08.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No