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CR-4063-2024 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CR-4063-2024 (O & M)  
Date of decision:23.01.2025

SHASHI JAIN TH. ATTORNEY

...PETITIONER

VS.

DEPUTY SINGH AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Petitioner in person.

Mr. Ajaivir Singh, Advocate  
for respondent No.1.

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**PANKAJ JAIN, J. (ORAL)**

**CM-887-CII-2025**

This application is for recalling the order dated 22.11.2024.

With the consent of the learned counsel for the parties, the main case is taken up today itself.

**Main Case**

1. Instant case is nothing but a sordid saga of an old lady running from pillar to post to get the order passed by the Supreme Court dated 31.03.2009 executed.

2. By way of illegal designs, the objectors till now have successfully forestalled the orders passed by the highest Court of land for last 16 years. The property admittedly was owned by one Santsoh Kumari. She struck with misfortune of renting it out to one Tarsem Lal on



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24.07.1961. On 01.04.1970, she executed a power of attorney in favour of her son and daughter appointing them as landlord qua the demised premises.

3. Petitioner - the daughter of Santosh Kumar filed eviction petition on 22.05.1982. The same was contested till Supreme Court. Conscious of the fact that by now the original tenants stand subrogated by the illegal occupants, Supreme Court while allowing the eviction petition held as under:-

*“22. In the result, this appeal deserves and it is, accordingly, allowed. The order of the Rent Controller, Ludhiana, dated 24.03.1995 passed in RA No.71 and order of the Appellate Authority, in Rent Appeal No. 2/21-4/1995 dated 6.2.1997 as well as the unreasoned order of the High Court dated 23.4.1998 passed in Civil Revision No. 4062/1997 are all quashed and set aside. As a consequence thereof, the application for eviction of Rakesh Kumar - respondent, son of Satpal filed by the land lady-appellant under Section 13 of the Rent Act is accordingly, allowed on the grounds available to her under Section 13(3)(a)(i) (a) and Section 13(2)(ii) (a) of the Rent Act.*

*23] The landlady, therefore, is held entitled for eviction of Rakesh Kumar-respondent from the suit premises. Rakesh Kumar and/or any other person claiming any right, title or interest in the demised premises are directed to hand over the vacant possession of the premises in dispute to Ms. Shashi Jain,*



the landlady on or before 31<sup>st</sup> May, 2009. In default thereof, Rakesh Kumar-respondent shall pay a sum of Rs. 500/- per day as mesne profits for unauthorized use and occupation of the demised premises after the stipulated day of 31<sup>st</sup> May, 2009 till the day the vacant possession is not handed over to the landlady.

*24] Rakesh Kumar-respondent shall also pay cost of Rs. 5000/- to the landlady.”*

4. J.D. failed to comply with the order passed by the Supreme Court. The petitioner was thus constrained to file execution application on 21.10.2010. On 09.10.2011 to their shock and surprise they discovered that one Malkit Singh and Sawaran Singh were demolishing the suit property. The complaint was filed. It led to registration of FIR No.106 registered for offences punishable under Sections 447, 448, 511, 380, 427 and 506 IPC at Police Station Division No.4. Sawaran Singh along with one Supreme Singh filed third party objections in the execution application claiming themselves to be absolute owners in possession of the demised premises on the strength of registered sale deed bearing Vasika No.2078 dated 18.08.1994. They claimed to be bona fide purchasers. The petitioners again approached police authorities complaining against the sale deed propounded by Sawaran Singh and Supreme Singh. FIR No.63 dated 27.05.2012 was registered against Sawaran Singh and Supreme Singh for offences punishable under Section 420, 467, 468, 471, 473, 477, 406, 379, 120-B and 427 IPC. Mahal Singh



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claimed to be a vendee under Santosh Kumari on the strength of sale deed bearing Vasika No.7401 dated 13.08.1982.

5. In criminal proceedings, Sawaran Singh and Supreme Singh suffered statements admitting that they have come to know that the sale deed in favour of Mahal Singh dated 13.08.1982 was in fact a forged and fabricated document and thus the sale deed in their favour dated 18.04.1994 is illegal, null and void. This resulted in dismissal of objections filed by Sawaran Singh and Supreme Singh. The petitioner-Shashi Jain filed civil suit bearing No.262/2018 challenging the sale deed propounded by Sawaran Singh and Supreme Singh. The suit was decreed. Sale deeds was struck down. It needs to be noticed that Executing Court while dismissing the objections observed as under:-

*“6. Having deliberated in detail over the arguments advanced by counsel for both the parties, this court finds favour with the arguments advanced by learned counsel for decree holder-respondent. Admittedly, Hon'ble Supreme Court of India vide its judgment dated 31.03.2009 passed in civil appeal No. 3623 of 2001 titled as Smt. Shashi Jain Versus Tarsem Lal (Dead) & anr. while allowing the appeal has ordered eviction of respondents from the suit premises. The operative para of the judgment of Hon'ble Supreme Court of India is being reproduced as hereunder:-*



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*"23. The landlady, therefore, is held entitled for eviction of Rakesh Kumar-respondent from the suit premises. **Rakesh Kumar and/or any other person claiming any right, title or interest in the demised premises are directed to hand over the vacant possession of the premises in dispute to Ms. Shashi Jain, the landlady on or before 31<sup>st</sup>May, 2009. In default thereof, Rakesh Kumar-respondent shall pay a sum of Rs.500/- as day as mesne profits for unauthorized use and occupation of the demised premises after the stipulated day of 31<sup>st</sup>May, 2009 till the day the vacant possession is not handed over to the landlady.**"*

*The present execution application is pending since 07.12.2010 and till date, the present execution has not been satisfied i.e. after elapsing of even more than 23 years. Although, in the present objections-application, objector is claiming title of the schedule premises and is praying for dismissal of present execution application, but after having gone through the judgment of Hon'ble Supreme Court of India thoroughly, it would follow that instant objections are not maintainable since the matter has been finally disposed of and decided by Hon'ble Apex Court. Even otherwise, the present execution application pertains to execution of order in rent petition and as such, this court as per settled proposition of law cannot go into the question of title at this stage, being Executing Court.*

*7. Otherwise also, as per the documents i.e. jamabandis, sale deed dated 03.07.1991 relied upon by the*



*applicant-objector as well as decree holder-respondent, this court would come to the conclusion that the objector can in no way be connected with the schedule property regarding his right-claim as the person namely Jiwan Lal from whom he is stating to have derived rights in the property was himself only having 44.75/1628 shares in the total property, which comes out to be less than 120 square yards. For arriving at this view, this court draws support from latin maxim "**nemo dat quod non habet**" which means that no one can give what he does not have. Furthermore, this court fails to find favour with the contention of applicant-objector as regards getting the mutation sanctioned only in the year 2023 and his argument being outsider as such cannot be given any due weightage. Although, applicant-objector has prayed for framing of issues, however, this court in view of its discussion as made above, has been able to reach the conclusion that framing of issues and recording of evidence is not quintessential to the adjudication of the present objections. Further for arriving at this view, this court draw support from decision of Hon'ble High Court of Punjab & Haryana in case titled as Som Parkash Vs. Santosh Rani, reported as 1996 (2) RCR (Rent) 270. Further, in the given circumstances, the present execution proceedings cannot be halted on the mere objections filed by objector-applicant and execution is ought to be satisfied as per law since the same*



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*pertains to the year 2010 and moreover, same has been allowed by Hon'ble Supreme Court of India vide its judgment dated 31.03.2009, as such, leaving no scope for the instant objections. Furthermore, this court is also guided by the directions given by the Hon'ble Supreme Court in case titled as Rahul S. Shah Vs. Jinendra Kumar Gandhi reported as 2021 (6) SCC 418, is able to attain the view that the instant execution proceedings are to be completed as expeditiously as possible as per law.*

8. *In view of the detailed discussion of this court in the preceding paragraphs of this order, instant application-third party objections filed by Deputy Singh are hereby dismissed being sans merits.”*

6. As if it was not enough, one Deputy Singh also come to join the party. He filed objections in execution propounding sale deed dated 03.07.1991 in his favour from one Jeewan Lal. The aforesaid objections were dismissed vide order dated 05.02.2024. Deputy Singh, respondent No.1 herein filed an appeal challenging the order 05.02.2024 in which the impugned order had been passed. In appeal preferred by the objector, the impugned order had been passed staying execution

7. Surprisingly, the appellate Court while granting temporary injunction in favour of the respondent – third party objector and thereby forestalling the orders passed by the Supreme Court did not bother to consider the right of the decree-holder to enjoy the fruits of decree. No satisfaction has been recorded as to whether the third party objector has any



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prima facie case or balance of convenience in his favour. The Appellate Court remained totally evasive to the rights of the petitioner, who is running from pillar to post since 2009 to get the orders of the Supreme Court executed.

8. Law with respect to grant of temporary injunction under Order XXXIX Rule 1 and 2 CPC is well settled. Prior to granting temporary injunction, the Court is required to test the case of the applicant on the tripod test well recognised under law. A perusal of the order passed by the Appellate Court shows that no such satisfaction was recorded as to whether the applicant satisfies any of the parameters of the much celebrated tripod test. There is no finding on prima facie case in favour of respondent. Court below did not even bother to fathom the inconvenience caused to petitioner who is running for last more than 20 years to possess her own property.

9. The conduct of the objector can be gazed from the fact that he claims to be owner of the property on the strength of sale deed dated 1991, yet for last more than 33 years remained in slumber and never bothered to participate in the continuing lis. One can read between the lines that after Supreme Singh and Swaran Singh failed in their misadventure and new objector cropped up. True to his name objector acted as Deputy to Supreme Singh in this attempt to usurp property of an old lady. Such claims raised on falsehood with an intent to derail the justice and to mislead the Courts of law need to be dealt strictly. While dealing with somewhat similar situation, Division Bench of this Court in **CWP-16471-2024 titled as Naveen Kumar**



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**Batra versus State of Haryana and others**, decided on 20.12.2024 held as  
under:-

“20.XXXXXX\_\_\_\_\_

Often, particularly of late, the judicial process, time, resources and infrastructure are abused by unscrupulous and litigious. At the cost of a litigant, pursuing a genuine cause, who quietly wait for his/her turn to mature, with unflinching faith and trust, even though the previous generation perished, while pursuing the cause. Our research for a decision that dealt with the same sentiment, in the similar settings, ends with the judgment of the Supreme Court in **Dnyandeo Sabaji Naik and Anr. Vs. Mrs. Pradnya Prakash Khadekar and Ors., 2017 (5) SCC 496,**

**which we rely upon with reverence:-**

*“14. Courts across the legal system - this Court not being an exception – are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable.*



*The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalizes such behavior. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the*



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*law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner.”*

21) In conspectus of the above, we are dissuaded to interfere in the matter. The petition, being bereft of merit, is accordingly dismissed, subject, however, to costs of Rs.5,00,000/- (Five Lakh), to be deposited with the PGI Poor Patient Welfare Fund, Chandigarh”

10. Finding conduct of the objector to be nothing but punctuated by mala fides and being fraud on court, the present petition is allowed with cost of Rs.1 lac.

11 This Court is quite sanguine that while hearing the appeal, the appellate Court would be quite conscious of the plight of the poor decree-holder, who has been forced to age in the corridors of the Courts fighting for the last more than 40 years to reclaim her property.

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

23.01.2025

*A.Kaundal*

**(PANKAJ JAIN)**

**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |