



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

242

CR-2872-2021

Date of Decision: August 25th, 2025

Satya Bhushan

.....Petitioner

Vs.

Mahavir Parshad (now deceased) through his LRs and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Manu Loona, Advocate
for the petitioner.

SUDEEPTI SHARMA J. (Oral)

1. The challenge in the present civil revision is to order dated 16.01.2020 passed by the learned Additional Civil Judge (Senior Division-1), Fazilka, whereby application filed by the petitioner under Order 21 rule 32 read with Sections 151 CPC for issuance of warrants of arrest of respondent Nos.1 to 4 and warrants of attachment of movable and immovable property of respondent Nos.1 to 4 for their willful and intentional disobedience of judgment and decree dated 11.08.1999 passed by Additional District Judge, Ferozpur was dismissed.

2. Learned counsel for the petitioner contends that there is willful and intentional disobedience of judgment and decree dated 11.08.1999 passed by Additional District Judge Ferozpur in CA-66-1997, still application under Order 21 Rule 32 read with Section 151 CPC filed by the petitioner is dismissed.

3. I have heard learned counsel for the petitioner and have gone through the file of this case through his able assistance.



4. It would be apposite to reproduced relevant portion of order dated 16.01.2020 passed by the learned Additional Civil Judge (Senior Division-1), Fazilka :-

“15. (26). In our considered opinion the right which had been adjudicated in the suit in the present matter and the findings which have been recorded as basis for grant of injunction as to the disputed property which is heritable and partible would enure not only to the benefit of the legal heir of decree-holders but also would bind the legal representatives of the judgment-debtor. It is apparent from section 50 CPC that when a judgment- debtor dies before the decree has been satisfied, it can be executed against legal representatives. Section 50 is not confined to a particular kind of decree. Decree for injunction can also be executed against legal representatives of the deceased judgment-debtor. The maxim "actio personalis moritur cum persona" is limited to certain class of cases as indicated by this Court in Girijanandini Devi v. Bijendra Narain Choudhary (supra) and when the right litigated upon is heritable, the decree would not normally abate and can be enforced by LRs. of decree- holder and against the judgment-debtor or his legal representatives. It would be against the public policy to ask the decree-holder to litigate once over again against the legal representatives of the judgment-debtor when the cause and injunction survives. No doubt, it is true that a decree for injunction normally does not run with the land. In the absence of statutory provisions in cannot be enforced. However, in view of the specific provisions contained in section 50 CPC, such a decree can be executed against legal representatives.

16. XXX



17. XXX

18. Now coming to another question that whether any violation of order dated 11.8.1999 passed by Sh. Jora Singh, learned Additional District Judge, Ferozepur then as per Para No.16 it was held "that applicants are the joint owner in possession to the extent of 1/7th share of property No. 2266/2267 and sale deed dated 11.5.1989 by respondent No.5 to 9 would be subject to adjustment at the time of final settlement. The respondent/defendant without partition are restrained from alienating the specific portion or more than their share. Sale, if any, by the defendants would be subject to adjustment." In the present application Satya Bhushan alleged in Para No.6 that the share of respondent No 1 in both houses bearing No.2266-2267 comes to 619 square feet but he alienated 870 square feet ie. more than his share and the house bearing No.2267-A is part of 2266 and 2267 and sell the share to respondent No.2 to 4. Firstly this Court is of the view that there is no document/title deed of property No.2266, 2267, 2267-A which could prove the total area of the house in which the applicant as well as respondent was having 1/7th share each as already held/declared in judgment dated 11.8.1999 Ex A1. The applicant has only placed on record the site plan Ex.A6 in which the total area of property bearing No.2266, 2267 and 2267-A is mentioned as 4348.48 square feet but this Court is of the view that even site plan has not been proved as per law because the same is not prepared after visiting the spot and after taking the measurement of the house as it was only prepared as per instructions of Satya Bhushan. AW-3 Parkash Singh draftsman also admitted in his cross examination that site plan was prepared by him at the instructions of Satya Bhushan and he has not visited the spot and he also admitted that there is no measurement in



the internal side of red portion and he has further admitted that he cannot tell whether the site plan is correct as per site or not. If we see the cross examination of applicant Satya Bhushan AW-1 then he also stated that he does not remember the total area of house bearing No.2266 and 2267-A. In further cross examination conducted on behalf of Lrs of respondent No 1 also he stated that he does not remember the total area of house bearing No.2266 and 2267 and he even cannot tell the share along with his sister, mother and brother while taking into consideration as 1/7th share. He also admitted that house No.2267-A is recorded in the name of Mahabir Parshad in Municipal record which is otherwise also proved vide copy of house assessment register Ex. A8 placed on record by the applicant himself. He also admitted that he has not filed any case of partition against Mahabir Prashad regarding the property in question till date but otherwise he has filed 6 cases against Mahabir Prashad which were dismissed by the concerned Courts. So this Court is of the view that as the applicant failed to prove the total area of House No.2266, 2267 and 2267-A in which they were having 1/7th share, then it cannot be said that respondent No.1 sell more than his share and the other arguments that there was restrain order regarding selling of specific portion also, this Court is of the view that as per Municipal Council record the name of Mahavir Parshad was recorded in House No.2267-A for the house measuring 22 X 60 but he only sold 42.5 X 20.6 square feet ie. 870 square feet to respondent No.2 to 4 and he could sell the entire land measuring 22 X 60 square feet in which he was recorded as owner but he only sold part share in the house. If we carefully perused the Para No.16 of the judgment dated 11.8.1999 Ex.A1, then it was also made clear that the



sale, if any, by the defendant would be subject to adjustment. So the applicant has failed to prove on record that respondent No.1 to 4 willfully failed to obey the judgment and decree dated 11.8.1999 Ex.A1. Moreover in the given circumstances the partition of the property is appropriate remedy for both the parties in the spirit of judgment dated 11.8.1999. Otherwise the application Under Order 39 Rule 2A CPC for violating the judgment dated 11.8.1999 filed by the applicant has also been dismissed earlier vide judgment dated 5.3.2014 Ex.A7 and appeal against the said judgment was also dismissed as withdrawn vide order dated 27.4.2015 Ex A3 on the statement given by Sh. R.P.Chuchra, Advocate counsel for applicant Ex.A4 The separate suit challenging the sale deed bearing Waiska No.2719 executed by Mahabir Prashad in favour respondent No.2 to 4 in a civil suit titled "Satya Bhushan Versus Mahabir Prashad" was also dismissed vide judgment dated 23.7.2013 Ex.R1 and Ex.R2 and appeal against the said judgment was also dismissed vide judgment dated 15.12.2014 passed by the Court of Sh. Kuljit Pal Singh the then learned Additional District Judge, Fazilka Ex R3 and Ex. R4 in which respondent No.2 to 4 were also held to be bonafide purchaser. So far as the present application Under Order 21 Rule 32 CPC is concerned, this Court is of the view that applicant has failed to prove the total area of house No.2266, 2267, 2267-A in which they were having 1/7th share each admittedly and consequently he also failed to prove that there was willful disobedience of said judgment and decree Ex.A. Hence issue No.1 is decided against the applicant and in favour of respondents whereas issue no 2 is partly decided in favour of applicant, and partly in favour of Respondent No.5 to 8.



5. A perusal of the above order shows that the earlier application filed by the petitioner under Order 39 Rule 2A CPC for violating the judgment dated 11.08.1999, was dismissed vide judgment dated 05.03.2014 (Ex. A-7) and appeal against said judgment was also dismissed as withdrawn vide order dated 27.04.2015 (Ex.A-3).

6. On the statement given by learned counsel for applicant (Ex.A-4) a separate suit challenging sale deed bearing Waiska No.2719, executed by Mahabir Prashad in favour of respondent Nos.2 to 4 in a civil suit titled as "Satya Bhushan Vs. Mahabir Prashad" was also dismissed vide judgment dated 23.07.2013 (Ex. R-1 and R-2) and appeal against such said judgment was also dismissed vide judgment dated 15.12.2014.

7. Further, it has been rightly observed by learned Additional Civil Judge (Senior Division) that petitioner failed to prove the total area of House No.2266, 2267, 2267-A in which he was having 1/7th share each and further failed to prove willful disobedience of said judgment and decree Ex.A.

8. In view of the above, I do not find any infirmity or illegality in the judgment and decree dated 16.01.2020 passed by the learned Additional Civil Judge (Senior Division-1), Fazilka, and the same is hereby affirmed.

9. Consequently, the present petition is hereby ***dismissed***.

10. Pending miscellaneous applications, if any, are also disposed of.

August 25th, 2025

Sahil

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No