



Bara No. 659 purchased vide registered sale deed Ex. P1, while the defendants were entitled to the southern portion of Bara No. 659.

4. Aggrieved, the plaintiffs filed a Regular Second Appeal before this Court, which was disposed of on 10.10.2018. This Court, while modifying the judgment of the learned First Appellate Court, observed as under:

“It is undisputed that the plaintiffs and defendants No. 2 to 4 had purchased separate portions in the plot in question through two different registered sale deeds of the same date i.e. 28.02.1980. Defendant Nos. 2 to 4 purchased the southern portion which was constructed, whereas the plaintiffs purchased the northern portion. Once the Appellate Court has found that the plaintiffs are in possession as owners pursuant to the aforesaid sale deed of the northern portion of the property, the Court erred in dismissing the suit. The concluding portion of the judgment passed by the First Appellate Court is extracted as under:-

“11. Consequently the judgment and decree passed by the lower Court is hereby set aside and the appeal is accepted and the suit of the plaintiff is dismissed with the observation that the plaintiffs are entitled to retain their possession only on the northern side of bara No.659 fully detailed in sale deed Ex.P1 vide which the plaintiffs purchased the northern side of the bara situated in village Hathwala. However, they will have no connection with the southern portion of bara No.659 which was purchased by the defendant vide sale deed Ex.P2. The parties are left to bear their own costs. Decree sheet be prepared accordingly and file be consigned to the record room.”



In view of the aforesaid limited submission, judgment and decree passed by the First Appellate Court is modified. There shall be declaration that the plaintiffs are owners in possession of northern portion of bara No. 659.”

5. Thus, the decree was modified to the extent that the plaintiffs were declared to be owners in possession of the northern portion of Bara No. 659. No decree of possession was granted in respect of any portion.

6. Thereafter, the decree-holders filed an execution petition, seeking execution of the original decree dated 22.03.1986. In the headnote of the execution petition, it was specifically pleaded that warrants of possession be issued in their favour with respect to the northern portion of Bara No. 659.

7. The petitioners/judgment-debtors filed objections, contending that the decree dated 22.03.1986 had already been set aside by the Appellate Court on 09.11.1990, and further modified by this Court on 10.10.2018. It was argued that judgment passed in RSA No.24 of 1991 granted only a declaratory relief of ownership in respect of the northern portion and no decree for possession had been passed, and hence no warrants of possession could be issued.

8. The Executing Court, however, dismissed the objections. It was observed that the High Court had clearly held that the plaintiffs were owners in possession of the northern portion of Bara No. 659, and since the defendants themselves admitted to being in possession of the entire Bara, warrants of possession could rightly be issued in favour of the decree-holders with respect to the northern portion.

9. Aggrieved thereby, the present revision petition has been filed.

**Findings**

10. I have considered the submissions of learned counsel for the petitioners and carefully gone through the record. The controversy hinges upon the interpretation of the judgment of this Court dated 10.10.2018 in RSA No.24 of 1991, titled as “*Mahabir and Others Vs. Mangat and Others.*”

11. A plain reading of the judgment passed in the above-said RSA reveals that the decree of the first appellate court was modified to the limited extent of granting a declaration that the plaintiffs are owners in possession of the northern portion of Bara No. 659. The operative portion of the RSA judgment did not direct delivery of possession to the plaintiffs, nor did it confirm the trial court’s decree of possession dated 22.03.1986. On the contrary, the original decree of possession was set aside by the first appellate court in 1990 and never revived thereafter. The judgment passed in the above-mentioned RSA merely declared the plaintiffs to be owners in possession pursuant to their registered sale deed.

12. It is well settled that an executing court cannot travel beyond the decree and must execute the decree as it stands. When the final decree in RSA is declaratory in nature, execution cannot be sought for possession in the absence of any specific decree to that effect. Warrants of possession can only be issued if the decree expressly directs delivery of possession. In the present case, the RSA judgment does not contain such a direction.

13. The Executing Court, in dismissing the objections, misinterpreted the RSA judgment by equating declaratory ownership with a right to seek possession. The declaration of ownership in favour of the plaintiffs does not automatically entitle them to warrants of possession against the defendants, particularly when the decree of possession passed by the trial court stood set aside. If the plaintiffs were



of the view that notwithstanding the judgment in RSA, they were still entitled to possession, the proper course was to file a separate suit for possession on the strength of their title, not to execute a decree which does not exist in that form.

Conclusion

14. In view of the above discussion, it is held that the warrants of possession have not been rightly issued. The judgment dated 10.10.2018 passed in RSA granted only a declaratory decree in favour of the plaintiffs, declaring them to be owners in possession of the northern portion of Bara No. 659. There is no executable decree for possession in favour of the plaintiffs. The execution petition, therefore, could not have been entertained for delivery of possession, and the objections filed by the judgment-debtors ought to have been allowed.

15. Accordingly, the impugned order dated 18.08.2025 passed by the executing court is set aside. The execution petition filed by the decree-holders, seeking warrants of possession, is dismissed as not maintainable. The civil revision petition is allowed.

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

September 04, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No