



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal Nos..... of 2025
(@Special Leave Petition (C) Nos.2817-2818 of 2020)**

SARASWATI DEVI & ORS.

APPELLANT(S)

VERSUS

SANTOSH SINGH & ORS.

RESPONDENT(S)

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. Leave granted.

2. The appeals arise from an order of the High Court, dismissing a writ petition and from the dismissal of the review petition too. We cannot but, at the outset, indicate that the High Court has misconstrued the entire case. The writ petition was from an order in a revision affirming the rejection of an Execution Petition¹. The EP was rejected on the ground that in an earlier EP, there was a satisfaction

¹ hereinafter, EP

recorded and hence, the principle of *res judicata* applies squarely. The decree-holder had filed a writ petition. The High Court found that the successive objections filed in the EP were not maintainable on the principle of *res judicata* and dismissed the writ petition and the review filed too was dismissed. When the writ petition was filed against the dismissal of an EP filed by the decree holder, the High Court found the objection filed by the judgment debtor to be not sustainable and dismissed the writ petition. We would have normally sent back the matter for consideration by the High Court but considering the long pendency of the matter, we are inclined to dispose of the appeals on merits.

3. Looking at the orders of the Courts below which are part of the record, the predecessor-in-interest of the appellants filed Civil Suit No.44 of 1988 against the respondents herein which was decreed as per Annexure P-1. The plaintiffs were granted a permanent prohibitory injunction from interfering with the peaceful possession of agricultural field No.4810-4811 situated in Village

Kharkhari, Tehsil and District Champawat. The supplementary sale deed dated 22.08.1998, issued in favour of the father of defendant Nos. 1 and 2 and the husband of defendant No.3 stood cancelled. The EP was filed by the plaintiffs presumably for obstruction caused, the first of which was closed as Annexure P-4, when both the decree-holder and the judgment-debtor were not present. The judgment-debtor had undertaken in writing before the Court that they were not causing any obstruction or interference and the Court assumed that since the decree-holder was absent, there was full satisfaction, which was recorded. A further EP is said to have been filed which was not pressed.

4. The order which gave rise to the instant proceedings was in the third execution proceedings initiated by the legal heirs of the plaintiffs who are the appellants herein. The appellants herein as decree-holders filed EP No.2 of 2012 to which objection was filed under Section 47 of the Code of Civil Procedure, 1908², which is at Annexure P-6.

² the CPC

The objection was that the defendants were asserting title based on the sale deed dated 29.09.1984 and what was cancelled was only a supplemental deed of 1998. We have to immediately notice that the defendants, despite notice having been issued, did not appear in the earlier proceedings nor did they raise such a contention before the Court. It was also the submission of the defendants in the objection filed that they have filed an application before the Court of Civil Judge, Junior Division to set aside the decree dated 19.07.2000. The Executing Court considered the rival contentions and found that since the earlier EP was disposed off on full satisfaction, there is no scope for a further EP. This was affirmed as per Annexure P-7 order by the revisional Court in Annexure P-8 which was challenged before the High Court.

5. The High Court clearly misconstrued the facts and misunderstood the orders impugned in the writ petition, and the writ petition filed by the decree holder against the dismissal of his EP was dismissed finding the objection of the judgment holder to be unsustainable.

6. The decree was one of permanent prohibitory injunction from interference to the peaceful possession of the scheduled property. A satisfaction recorded in one EP would not result in the dismissal of a further EP filed on the ground of a subsequent interference caused.

7. It is also to be noticed that Article 136 of the Schedule to the Limitation Act, 1963 provides for limitation, for execution of any decree other than a decree granting a mandatory injunction or the order of any Civil Court. While 12 years is provided as the period of limitation the proviso specifically provides that there would be no limitation to enforce or execute a decree granting perpetual injunction. When a permanent injunction is granted it operates perpetually against the judgment debtors, their assignees and successors and it could be enforced at any time, breach is occasioned. The decree-holder; their assignees and successors, has a perpetual right *in personam* against the decree holders their assignees and successors.

8. We find the order of the High Court to be flawed, and the order of the executing Court as affirmed by the revisional Court also to be bad and we set aside the orders. The EP shall stand restored. Our observations regarding the claim raised under Section 47 of the CPC is only prima facie and it shall not govern the consideration of such objection by the executing Court. The judgment-debtor will also be entitled to produce before the executing Court the result of the alleged proceedings initiated for cancellation of the decree. With the above observation, we remit the case back to the Court of Civil Judge, Senior Division, Champaran wherein E.P. No.2 of 2012 would stand restored. The matter shall be considered afresh in the light of the findings hereinabove, except those regarding the sustainability of the decree and the contention raised regarding the cancellation sought before the same Court; which shall fall for consideration by the Executing Court.

9. The appeals are allowed with the above observations and reservations.

10. Pending applications, if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
MAY 16, 2025.**