

C.R. No. 108 of 2009

31.3.2010 Present:- Mr. Avneesh Bhardwaj, counsel for the petitioner.

None for the respondents.

The order dated 8.5.2009 has been assailed in the revision petition. The decree-holders had filed execution petition seeking warrant of possession of the land comprised in Khasra No. 40/1 as per Tatima Ext.PW-5/B from the judgment debtors. The Judgment Debtor No.2 was proceeded ex-parte whereas Judgment Debtor No.1 Mahant Ram filed objections in the execution petition wherein he has stated that the matter was compromised before the learned District Judge, who modified the judgment, decree of the trial court in accordance with compromise. It has been stated in the objections that respondents are ready to comply the terms and conditions of Ext. C-1 effected between the parties before the learned District Judge, Hamirpur but the Decree Holders are avoiding the terms and conditions of the compromise Ext.C-1. The learned executing court vide impugned order accepted the objections and held that the Decree-Holders are not entitled for warrant of possession qua khasra No. 40/1 as it stood modified vide judgment dated 15.12.2007. They are entitled for recovery of Rs.1,07,000/- with interest at the rate of 9% per annum from 15.12.2007. It has been submitted by the learned counsel for the petitioner that the petitioner is an illiterate person. The land which is being offered is P.W.D. road.

The petitioner was represented by an Advocate before the learned Executing Court. The petitioner took objection regarding the executability of the decree and the objection of the petitioner was upheld partly by the learned Executing Court. On behalf of petitioner ultimately time was sought on 8.5.2009 for making the payment. The executing court cannot go behind the decree. There is no merit in the revision, which is accordingly dismissed.

March 31, 2010.
(GR)

(Kuldip Singh)
Judge.