

Civil Revision No.98 of 2016

01.10.2020 Present: Mr. Munish Dhatwalia, Advocate, for the petitioner.

Name of respondent No.1 is mentioned as deleted vide order dated 31.12.2014 in the cause title.

Mr. Onkar Jairath, Advocate, for respondents No.2(a) to 2(g).

(Through Video Conferencing)

Petitioner herein is aggrieved by order dated 31.03.2016, which has been passed by learned Executing Court, vide which, petition filed under Order 21 Rule 32 of the Code of Civil Procedure for execution of judgment and decree passed by the Court of learned Civil Judge (Junior Division), Barsar, District Hamirpur, H.P., in Civil Suit No.60 of 2007, has been dismissed by the Executing Court. The decree which stood passed by the Civil Court in favour of the present petitioner calls upon the defendants to remove the obstruction made in challa (trench) and they were also restrained from blocking Challa and diverting the flow of water towards the suit land comprised in Khata No.8, Khatauni No.24 min, Khasra No.420, area measuring 2 Kanal 5 Marla, situated in Tika Sariana, Mouza Dhatwal, District Hamirpur, H.P.

Whereas, the contention of the Decree Holder is that decree so passed by the learned Trial Court has not been obeyed by the Judgment Debtor, learned counsel for the Judgment Debtor, on the contrary, while supporting the order passed by the learned Executing Court, submits that the same stands complied with.

Be that as it may, taking into consideration the nature of decree which stands passed by the learned Civil Judge in favour of the present petitioner, in my considered view, it will be in the interest of justice in case Tehsildar Barsar, District Hamirpur, H.P. is directed to visit the spot in the presence of parties and file his report to the Court, indicating therein the spot position and as to whether the decree passed by the learned Civil Judge stands complied with or not. Learned counsel for the petitioner shall make available copy of this order to the Tehsildar concerned within one week from today and thereafter spot shall be visited by the Tehsildar by issuing notice to the parties concerned to be present on the spot on the date fixed.

List on **09.11.2020**, as prayed for, by which date, Tehsildar is directed to submit his report to the Court, through the office of learned Advocate General.

Copy dasti.

(Ajay Mohan Goel)
Judge

October 01, 2020
(Bhardwaj)