



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ESA-19-2026 (O&M)

**Baba Gopal Dass Chela Surti Dass since deceased through
Gaddi Nasheen Mahant Ram Niwas Das Ji**

. . . . Appellant

Vs.

Ghat Talab Kaulan Wala as Parbhu wala

. . . . Respondent

Reserved on: 10.03.2026

Pronounced on: 16.03.2026

Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Vijay Kumar Jindal, Sr. Advocate, with
Mr. Abhishek Shukla and Mr. Bhupinder Ghai, Advocates,
for the appellants.

Mr. Harsh Aggarwal, Advocate for the respondent.

DEEPAK GUPTA, J.

The present Execution Second Appeal has been filed by the appellant/objector assailing the judgment dated 20.01.2026 passed by the learned Additional District Judge, S.A.S. Nagar (Mohali), whereby the appeal filed by the appellant against the order of the executing court dated 08.09.2025 dismissing his objections in execution proceedings, was dismissed.

2. **Factual Matrix** : The litigation between the parties has a long chequered history. The respondent Trust had instituted a suit for mandatory injunction and rendition of accounts against one Baba Gopal Dass, seeking a direction for vacating the management and possession of the Mandir along with its properties including building, cultivable land, well and other properties comprised in specified khasra numbers situated in village Mundi Kharar, District Ropar.

3. The suit was initially decreed for rendition of accounts only by the trial court on 2.9.1993 (*Annexure R-1*). The relief of mandatory injunction was declined. In the appeal preferred by the respondent – plaintiff, the first appellate court, vide judgment dated 3.5.1997 (*Annexure R-2*) reversed the decree and allowed the suit not only for rendition of accounts but also granting relief of mandatory injunction and by directing the defendant to vacate the management and possession of the temple property.

4. The matter thereafter traveled to this High Court, wherein RSA-2263-1997 filed by Baba Gopal Dass – defendant was allowed and the suit was dismissed on the ground of abatement, on 18.07.2016 (*Annexure R-3*). During the pendency of proceedings before this court, Baba Gopal Dass died and the present appellant Ram Niwas was brought on record, who was claiming himself to be the successor/representative.

5. However, in proceedings before Hon'ble Supreme Court, it was clarified that the impleadment of Ram Niwas was only for the purpose of representation of the appeal and that such impleadment would not automatically clothe him with the status of successor-in-interest of Baba Gopal Dass.

6. Eventually, the matter reached the Hon'ble Supreme Court in Special Leave Proceedings. The Hon'ble Supreme Court partly allowed the appeal and restored the decree of the first appellate court granting mandatory injunction, while declining the relief of rendition of accounts. Consequently, the decree for mandatory injunction attained finality.

7. ***Execution Proceedings*** : On the basis of the decree affirmed by the Hon'ble Supreme Court, the respondent initiated execution proceedings seeking enforcement of the decree and possession of the property. At this stage, the present appellant Ram Niwas filed objections before the executing court contending that he was not declared as legal representative or successor of Baba Gopal Dass and therefore the decree passed against Baba Gopal Dass was not binding upon him. It was further alleged that the decree holder was seeking possession of property beyond the scope of the decree.

8. The executing court dismissed the objections vide order dated 08.09.2025 and issued warrants of possession.

9. Aggrieved against the said order, the appellant filed an appeal. However, learned Additional District Judge, S.A.S. Nagar (Mohali), dismissed the appeal vide impugned judgment dated 20.01.2026, which brought the appellant before this court. Hence, the present Execution Second Appeal.

10. ***Findings of the Courts Below*** : The executing court dismissed the objections holding that the decree passed by the competent court and affirmed by the Hon'ble Supreme Court was executable and the objector could not resist the execution on untenable grounds.

11. The appellate court while affirming the order of the executing court observed that the identity of the suit property stood clearly established from the decree passed by the first appellate court, which had been upheld by the Hon'ble Supreme Court. The court also noted that the decree related to the property comprised in specified khasra numbers and the execution proceedings were being pursued accordingly. The appellate court further observed that the Supreme Court had clarified that Ram Niwas, even as legal representative of Baba Gopal Dass, would not have a larger interest than what was vested in the original defendant, and therefore, the decree passed against Baba Gopal Dass was enforceable against him. Consequently, the objections were held to be devoid of any merit and the appeal was dismissed.

12. ***Contentions of the Appellant*** : Assailing the above order, Learned senior counsel for the appellant has contended that the appellant was never declared as the legal representative or successor of Baba Gopal Dass and therefore, the decree passed against Baba Gopal Dass cannot be enforced against him. It is further argued that the Supreme Court had specifically observed that the rights regarding Sewadari or succession were left open to be adjudicated in independent proceedings and therefore, the appellant cannot be treated as bound by the decree. Another contention raised is that the execution proceedings seek possession of property beyond the scope of the

decree and therefore, the warrants of possession issued by the executing court are illegal.

13. **Contentions of the Respondent** : *Per contra*, learned counsel for the respondent/decree holder has argued that the decree passed by the first appellate court and restored by the Hon'ble Supreme Court has attained finality. It is submitted that the decree relates to specific khasra numbers, which have been clearly identified and therefore, the contention regarding identity of property is misconceived. It is further submitted that the appellant claims his status only through Baba Gopal Dass and therefore, he cannot claim a better or independent right than the original judgment debtor. Accordingly, it is argued that the objections were rightly dismissed by both the courts below.

14. **Consideration by the Court** : Having heard learned counsel for the parties and after perusing the record, this Court is of the opinion that no interference is called for in the impugned orders.

15. It is well settled that an executing court cannot go behind the decree. Once a decree has attained finality, the executing court is bound to enforce it as it stands. The decree in the present case, granting relief of mandatory injunction directing the defendant to vacate the management and possession of the property, stands affirmed by the Hon'ble Supreme Court and has therefore, attained finality.

16. In ***Silverline Forum Pvt. Ltd. vs. Rajiv Trust (1998) 3 SCC 723***, the Supreme Court held that while objections of third parties in possession can be examined under Order XXI Rules 97 to 101 CPC, such objections cannot be permitted to defeat or reopen a decree that has attained finality. Similarly, in ***Brahmdeo Chaudhary vs. Rishikesh Prasad Jaiswal (1997) 3 SCC 694***, the Supreme Court held that resistance to execution by a person claiming through the judgment debtor cannot be entertained as an independent claim. Further, in ***Ashan Devi vs. Phulwasi Devi (2003) 12 SCC 219***, it was held that a person who derives possession through the judgment debtor cannot resist execution of a decree on grounds which the judgment debtor himself could not have raised.

17. **Status of the Appellant** : The principal contention raised by the appellant is that he was not declared as the legal representative of Baba Gopal Dass and therefore, the decree cannot be executed against him. This argument is devoid of any merit.

18. The appellant claims his status only through Baba Gopal Dass. Even assuming that his status as successor or Sewadar remains to be independently adjudicated, it does not follow that he can resist the execution of a decree passed against the person through whom he claims possession. The appellate court has rightly noticed that the Hon'ble Supreme Court has observed that Ram Niwas, even as legal representative, would not have a larger interest than that of Baba Gopal Dass. Therefore, the appellant cannot claim a better right than the original defendant against whom the decree was passed.

19. **Third Party Objection** : The plea that the appellant is a third party is also misconceived. A genuine third party claiming independent title may resist execution under Order XXI Rules 97–101 CPC. However, a person claiming through the judgment debtor cannot assume the character of a third party so as to defeat execution of the decree. In the present case, the appellant's claim is entirely derivative and therefore cannot override the decree.

20. In the present case, the appellant himself asserts that he is the Mahant/Chela of Baba Gopal Dass and thus, traces his claim through the original defendant. Therefore, he cannot be treated as an independent third party so as to defeat the decree.

21. **Reliance on Section 47 & 146 CPC** : Learned counsel for the appellant has further contended that in view of Sections 47 and 146 of CPC, and relying upon the judgment of the Karnataka High Court in **Ramachandra v. Laxmana Rao (2000 AIR Karnataka 298)**, the appellant cannot be treated as a representative of Baba Gopal Dass and therefore, the decree passed against Baba Gopal Dass cannot be enforced against him.

22. The said contention is misconceived and does not advance the case of the appellant.

23. Section 47 CPC provides that all questions arising between the parties to the suit or their representatives relating to execution, discharge or satisfaction of the decree shall be determined by the executing court. The expression “representative” occurring in Section 47 has been consistently interpreted by courts to have a wide connotation and to include not merely legal representatives in the strict sense but also persons, who derive title or possession through the judgment debtor.

24. Section 146 CPC further expands this principle by providing that where any proceeding may be taken by or against any person, the same may also be taken by or against any person claiming under him.

25. The Karnataka High Court in ***Ramachandra v. Laxmana Rao's Case (supra)*** has itself explained that the expression “representative” includes a person, who claims under or through the judgment debtor and succeeds to his interest in the property, and such a person would be bound by the decree to the extent of that interest.

26. Thus, the ratio of the said judgment is actually that a transferee or successor-in-interest of the judgment debtor stands in his shoes and is bound by the decree, and execution can be maintained against such person under Section 146 CPC.

27. When the above principle is applied to the facts of the present case, the argument raised by the appellant becomes self-defeating.

28. The appellant Ram Niwas does not claim an independent title adverse to Baba Gopal Dass. On the contrary, his own case is that he is the Chela/Mahant connected with Baba Gopal Dass and claims through him in relation to the management and possession of the Mandir property. Once the appellant traces his claim through Baba Gopal Dass, he clearly falls within the category of a person “claiming under” the judgment debtor within the meaning of Section 146 CPC.

29. Moreover, the Hon'ble Supreme Court has already clarified in the earlier proceedings that even if Ram Niwas is treated as a legal representative, he cannot have any larger interest than what was vested in Baba Gopal Dass.

30. Therefore, the appellant cannot escape the binding effect of the decree by contending that he is not formally declared as the legal representative. The decisive test is not the formal declaration of legal representation but whether the person claims or derives possession or interest through the judgment debtor.

31. In the present case, the appellant's possession, if any, is clearly derivative of Baba Gopal Dass. Consequently, he cannot claim the status of a stranger or independent third party so as to defeat the execution of a decree that has attained finality up to the Hon'ble Supreme Court.

32. Rather than supporting the appellant, the principle laid down in ***Ramachandra v. Laxmana Rao (supra)*** reinforces the settled position that a person claiming through the judgment debtor is bound by the decree and execution can validly proceed against him under Sections 47 and 146 CPC.

33. Accordingly, the contention raised by learned counsel for the appellant on the basis of Sections 47 and 146 CPC and the aforesaid judgment is rejected.

34. ***Identity of Property*** : The argument regarding identity of the property is equally untenable. The decree clearly refers to specific khasra numbers and the appellate court has recorded that the identity of the suit property stands established. Moreover, it has also been noticed that the decree holder has already moved an application before the executing court for withdrawing the execution qua certain khasra numbers not forming part of the decree. Thus, no prejudice can be said to have been caused to the appellant.

35. ***Conclusion*** : In view of the above discussion, this Court finds that the decree granting mandatory injunction has attained finality up to the Hon'ble Supreme Court; that the appellant, claiming through the original defendant, cannot resist the execution of the decree; and that the objections

raised by the appellant were rightly dismissed by the executing court and the appellate court.

36. No substantial question of law arises for consideration in the present Execution Second Appeal.

37. Accordingly, the present Execution Second Appeal is dismissed.

Pending applications, if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

16.03.2026

Vivek

Whether Speaking/reasoned

Yes

Whether reportable

No

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