

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No. 1364 of 2015 (O&M)
Date of decision: 19.09.2015**

PRITAM SINGH

... Petitioner

versus

PARAMJIT SINGH

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Gurcharan Dass, Advocate, for the petitioner.

Mr. Hemraj Kapil, Advocate for the respondent.

K.Kannan, J.

CM No. 19509-CII of 2015

Application is allowed.

Annexure P-16 is taken on record.

Main case

The decree for money which is put in execution was resisted by the defendant-Judgment debtor to say that the plaintiff had received some money from the defendant and issued a receipt. This receipt was prior in time to the date of the decree. The Court dismissed the objections and the judgment debtor is the revision petitioner.

The decree cannot be set aside in execution. The maintainability of execution cannot be raised after a decree was passed by reference to alleged payments before the decree. The only remedy will be to set aside the ex-parte decree in the manner known to law and enter contest on the suit claim by making reference to an alleged receipt said to have been passed by the plaintiff to the defendant. The revision petition is dismissed as not requiring any intervention but with liberty to the petitioner to take appropriate redressal against the ex-parte decree that has been passed in the manner known to law.

It will be open to the petitioner to apply to the Court to which he

will file an application for setting aside the ex-parte decree to seek for an interim orders of stay or protection. The petitioner will deposit Rs. 25,000/- within two weeks and there shall be a protection against the arrest till that time.

The interim protection will stand vacated and may be replaced by any order that the Lower Court passes, if any, application for setting aside the ex-parte decree is moved.

(K.KANNAN)
JUDGE

19.09.2015

kv