

**Sr. No.221
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Civil Revision No.219 of 2014 and
Civil Revision No.1483 of 2014
Date of Decision.13.10.2015**

Harpreet Singh and others

.....Petitioners

Versus

Dharmdev and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. K.S.Chahal, Advocate,
for the petitioners.

Mr. Rohit Kumar, Advocate,
for respondent No.1.

K. KANNAN J. (ORAL)

Both the revision petitions are connected and they are disposed of by a common order, one refusing to set aside the sale and another confirming the sale already made.

The revision is against the order dismissing the appeal summarily as not maintainable. The appeal was against the dismissal of the petition under Order 21 Rule 90 CPC. The petition under Order 21 Rule 90 CPC to set aside the sale could be disposed of only in the manner provided under Order 21 Rule 92 CPC. Order 21 Rule 92(1) reads thus:-

“Where no application is made under rule 89, rule 90 or rule 91, or where such application is made and disallowed, the Court shall make an order confirming the sale, and thereupon the sale shall become absolute.

Provided that, where any property is sold in execution of a decree pending the final disposal of any claim to, or any objection to the attachment of, such property, the Court shall not confirm such sale until the final disposal of such claim or objection.”

Consequently, when an application is made under Order 21 Rule 90 CPC and it is disallowed, the Court will make an order confirming the sale and thereupon the sale would become complete. Order 43 Rule 1 (j) CPC refers to an appealable order which include “an order under rule 92 of Order XXI setting aside or refusing to set aside a sale”. The executing Court has refused to set aside the sale filed under Order 21 Rule 90 CPC. Consequently, the order passed must be taken as an order passed under Order 21 Rule 92 CPC and hence, the appeal alone is competent.

The order passed by the Appellate Court is set aside and the matter is remitted to the appellate Court for consideration on merits and in accordance with law.

Both the revision petitions are allowed.

(K. KANNAN)
JUDGE

13.10.2015
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