

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

Civil Revision No.2477 of 2005

Date of decision: **04**.09.2015

Megh Singh

... Petitioner

versus

Banarasi Dass (deceased, through his LRs) and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pardeep Goyal, Advocate,
for the petitioner.

Ms. Kuldeep Kaur Ghumman, Advocate,
for respondent No.6.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J.

1. The revision petition is against the order passed by the Executing Court dismissing an application for enforcement of surety by taking action against the lands offered as security by one Hanif Khan-the 6th respondent. The court had earlier caused an attachment of the property of the 1st respondent-Banarsi Dass and he moved an application for vacating the attachment and offered to furnish security. The court had allowed for the security to be given for ₹1 lakh. This order was brought in challenge by the plaintiff before this

court in Civil Revision No.1920 of 1991 and this court had passed an order affirming the order already passed but directing that the plaintiff be given an opportunity to state his objections regarding the sufficiency of the security. The 6th defendant offered security for ₹1 lakh for the property and it is this security which was sought to be enforced before the Executing Court. The Executing Court found that the security has been offered by the 6th respondent only for the liability of the 1st defendant but since the suit had been dismissed against all the respondents except the 5th defendant, the security cannot avail to the benefit of the decree holder.

2. The decree holder points out that the security was offered at a time when a suit claim was made against all the defendants and when an attachment of the property had been made against the properties held by the 1st defendant, he sought for vacating the attachment and offered the security of the third party. The third party, who offered the security was actually providing security for all the defendants and not merely for the liability of the 1st defendant. The decree holder has relied on the security bond furnished at the court on 23.09.1995. I have seen through the security bond. It reads as under:-

“Surety Bond

Sir,

I am Hanif Khan son of Shri Shad Khan son of

Shri Hime Khan, is a resident of Sadrabad, Tehsil Malerkotla.

That in the above titled suit, this court has ordered to furnish a surety bond of Rs.1,00,000/- (Rs. One lacs only). I stand surety for defendants Banarsi Dass and others and bind myself that if the case is decided against the defendants and the defendants fail to deposit the amount or commit any kind of default, I being surety shall be duty bound to deposit the amount of Rs.1,00,000/- as penalty/compensation to the Government. Hence this surety bond has been reduced in writing so that it may served as proof.

Hanif Khan, Surety, T.I.

Property under surety.

Land 5 bighas, situated Mehmoodabad Rs.1,50,000/-

Jamabandi for the year

1989/90 attached.

House 1 = Rs.50,000/-

Articles = Rs.20,000/-

Household Articles = Rs.50,000/-

Total

Rs.2,70,000/-
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There is no doubt in my mind that the security which was offered

relates to the liability of the defendants as made out by the plaintiff initially and if the suit had ultimately been decreed only against the 5th defendant, it must be taken that the security bond is available for enforcement against the property offered by the 6th respondent. The court below was surely in error in dismissing the application.

3. The impugned order is set aside and the civil revision is allowed. The decree holder will have a right of enforcement of the security bond in accordance with law.

(K.KANNAN)
JUDGE

04.09.2015

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