

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 3936 of 2015 (O&M)
Date of decision: 23.7.2015

Kanwaljit Singh and another

.. Petitioners

v.

Sumit Kaur and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Iqbal Singh Ratta, Advocate for the petitioners.

...

Rajesh Bindal J.

The judgment-debtors have filed the present petition impugning the order dated 9.1.2015 (Annexure P-16), whereby the objections filed by the petitioners claiming that the decree passed in favour of the respondents is no more executable as the same had been satisfied, were dismissed and the property of the petitioners was attached to be put to auction.

In the case in hand, a suit for maintenance was filed by the respondents against the petitioners, which was decreed by Civil Judge, Saharanpur, vide judgment and decree dated 17.9.2008 directing payment of ₹ 4,500/- per month each to the two children, born out of the wedlock of respondent No. 1-Sumit Kaur with late Amarjit Singh and ₹ 1,000/- per month to respondent No. 1-Sumit Kaur, widow of Amarjit Singh. In appeal, the judgment and decree of the trial court was set aside vide judgment dated 13.1.2009. The respondents preferred Second Appeal No. 338 of 2009 before Allahabad High Court, where operation of the judgment and decree of the lower appellate court dated 13.1.2009, was stayed. Appeal is stated to be still pending.

As the decree sought to be executed was passed by the court at Saharanpur and the property of the judgment-debtors was located at Ambala, decree was transferred to the courts at Ambala for execution. During execution proceedings, the petitioners filed objections claiming that the decree had been satisfied, which is no more executable, as in terms of Sections 19 and 20 of the Hindu Adoption and Maintenance Act, 1956, the widow, after she re-marries and further the son, after attaining the age of 18 years, and daughter, if she marries, are not entitled to any maintenance. In the case in hand, the widow had re-married. The son had attained the age of 18 years and the daughter has been married. Hence, the decree stood satisfied by operation of law and was no more executable.

After hearing learned counsel for the petitioners, I do not find any reason to interfere with the impugned order only for the reason that the decree under execution has not yet attained finality. Second Appeal No. 338 of 2009 filed by the respondents against the judgment and decree of the learned lower appellate court dated 13.1.2009 is still pending in Allahabad High Court, where operation of the judgment and decree of the lower appellate court was stayed. In terms thereof, the judgment and decree of the trial court in favour of the respondents is being executed. The petitioners could always move application for modification of the interim order in the pending appeal under any changed circumstances but they have not chosen to do the same.

For the reasons mentioned above, I do not find any reason to interfere with the impugned order. Accordingly, the present petition is dismissed. However, the same will not debar the petitioners from availing of their remedy to seek modification of the order dated 13.1.2009, if so advised.

(Rajesh Bindal)
Judge

23.7.2015
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