

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

CR No.4399 of 2015 (O&M)
Date of decision: 15.7.2015

K.K. Arora and others

..... petitioners

Versus

Mrs. Swaran Malhotra and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sanjay Vij, Advocate, for the petitioners.

RAJESH BINDAL, J

Challenge in the present petition is to the order dated 24.3.2015 passed by the learned court below, whereby the property of the petitioners is sought to be attached in execution of decree passed in favour of respondent No.1.

In the case in hand, respondent No.1/plaintiff filed a suit for recovery of ₹ 6,43,922/- against the petitioners and respondent No.2, which was decreed by the learned Additional District Judge, Tis Hazari Courts, Delhi on 4.10.2013. As the property of the judgment debtors was available in Gurgaon, the decree was transferred to Gurgaon for execution, in which, the present petitioners filed objections claiming that the court at Delhi had not territorial jurisdiction to deal with the claim of respondent No.1/plaintiff in the suit. It was further submitted that the petitioners were merely brokers, whereas the responsibility is of respondent No.2. Execution is being sought against the petitioners being soft target. It is not in dispute that the petitioners were duly served in the suit, who thought of not putting in appearance and were proceeded against ex-parte.

After hearing learned counsel for the petitioners, I do not find any merit in the present petition.

Once the petitioners were duly served in the suit filed by respondent No.1 at Delhi and thought of defying the notice and did not put in appearance, the court did not have any other choice but to proceed ex-

parte against them. The judgment and decree attained finality. As the property of the judgment debtors was located at Gurgaon, the decree was transferred for execution to Gurgaon. In execution, the petitioners sought to raise all kind of pleas, which could be raised during the trial of the suit and for which they had ample opportunity having been served. They did not thought it appropriate to avail of that opportunity and let the court proceed ex-parte against them. It is not in dispute that the petitioners were brokers and for the sale of property to respondent No.1/plaintiff, they also got commission. That does not mean that they had no responsibility, if the deal failed. Under these circumstances, the objection regarding jurisdiction or the liability of the petitioners cannot be entertained. There is no error in the order passed by the learned court below.

The present petition stands dismissed.

(RAJESH BINDAL)
JUDGE

15.7.2015

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