

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

CR No.5616 of 2015 (O&M).

Date of Decision: 31.08.2015.

Gurmail Singh

....Petitioner.

VERSUS

Jaswant Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. K.P. Singh, Advocate for the petitioner.

SNEH PRASHAR, J.

This is a petition under Article 227 of Constitution of India for setting aside the order dated 18.05.2015 passed by learned Additional Civil Judge (Senior Division), Balachaur, vide which the objection petition filed by the petitioner was dismissed.

The facts are that an execution petition was filed by respondent Jaswant Singh on the basis of the decree dated 24.09.1996 passed in his favour on the counter claim initiated by him in a civil suit filed by petitioner-plaintiff Gurmail Singh which was dismissed. The first appeal filed by him was also dismissed on 12.02.2001 and no second appeal was preferred.

On notice, petitioner-judgment debtor appeared and filed an objection petition alleging that on 14.03.1994 a compromise was reduced into writing between the decree holder-respondent and the judgment debtor-petitioner by virtue of which the respondent-decree holder is estopped from pursuing the execution proceedings.

Considering the submissions made on behalf of petitioner-judgment debtor and respondent-decree holder, the objection petition was dismissed by learned executing Court vide impugned order dated 18.05.2015.

Aggrieved by the order, the petitioner-judgment debtor has preferred the instant civil revision.

The submissions made by Mr. K.P. Singh, learned counsel representing the petitioner have been considered.

It was submitted on behalf of the petitioner that the compromise dated 14.03.1994 was effected between the petitioner-judgment debtor and the respondent-decree holder through Khangi Panchayat which was reduced into writing and was duly signed by the parties. The compromise was with regard to the passage that was subject matter of the suit in which the decree dated 24.09.1996 on the counter claim of the respondent was passed. Since the original compromise or even its photostat copy was not with the petitioner, he could not plead about the same in his case. It was during execution proceedings that the photocopy of the compromise was handed over to the petitioner by a disciple of Swami Ram Dass Nirman.

Learned counsel contended that the respondent-decree holder cannot resile from the compromise duly signed by him and is estopped from filing the execution petition on the basis of the decree dated 24.09.1996.

Admittedly, a civil suit titled 'Gurmail Singh vs. Anil Kumar and others' in which respondent Jaswant Singh was one of the defendants, was filed by the petitioner. It is his own case that neither there was mention of any compromise dated 14.03.1994 between the parties in his pleadings nor he proved any such compromise during the trial of the case. Respondent Jaswant Singh filed a counter claim in the civil suit with regard to the subject matter in dispute. While the suit of the petitioner was dismissed, the counter claim of respondent Jaswant Singh was decreed vide judgment and decree dated 24.09.1996. When there was no reference of any alleged compromise between the parties, the same, if any, cannot now have an overriding effect on the decree passed by the civil court. The executing court could not reopen the trial on new facts being pleaded by the petitioner-judgment debtor. It was rightly held by the executing court that the judgment and decree dated 24.09.1996 had gained finality and any compromise between the parties prior to the said judgment and decree can have no force on the operation of the judgment and decree.

Accordingly, there being no error of law or perversity in the order of learned trial Court warranting intervention, this petition is dismissed.

(SNEH PRASHAR)
JUDGE

31.08.2015.
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