

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

**Civil Revision No. 801 of 2014
Date of Decision: 27.08.2015**

Hans Raj

...Petitioner

Vs.

Nachhatar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Sandeep Jasuja, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

As per office report and order dated 13.02.2015, respondent has been duly served. None has come forward to represent the respondent even on last date i.e. 13.02.2015 as well as on 07.07.2015. In view of aforesaid, this Court has no alternative, but to proceed in the absence of respondent.

Defendant Hans Raj has filed this revision petition against the order dated 01.08.2013 passed by Civil Judge (Senior Division), Fazilka, accepting the application under Order 38 Rule 5 CPC filed by the respondent for attaching the land measuring 93 kanals 10 marlas belonging to the petitioner. Petitioner/defendant borrowed an amount of Rs.5 lacs from the plaintiff/respondent on the basis of pronote and receipt dated 08.06.2010. The said amount has not been repaid by the defendant to the plaintiff. The suit for recovery has been filed by the plaintiff. During pendency of suit, an application under Order 38 Rule 5 CPC has been filed, seeking attachment before judgment on the ground that defendant intends to alienate the suit land and in that eventuality it would be very difficult to recover the amount in the event of decretal of the suit. Trial Court accepted

the application vide the impugned order, thereby directing the defendant to furnish surety of Rs.8 lacs failing which the property mentioned in the application i.e. 93 kanals 10 marlas would be attached. Learned counsel for the petitioner contends that total land belonging to the petitioner comes out to be around 93 kanals 10 marlas. The Patwari on the asking of Tehsildar has endorsed that the market value of the land in village Behak Hasta Utar, District Fazilka, is 15 lacs per acre. Obviously the reference is in the context of Collector rate prevailing in the area. The market value may be even more than that.

Learned counsel further states that petitioner is not in a position to furnish any surety and would be satisfied in case proportionate/adequate land be ordered to be attached in order to satisfy the ultimate claim of the defendant, in case the suit is decreed. According to learned counsel, 16 kanals of land would suffice to meet the requirement, if any, in case suit of the plaintiff/respondent is decreed by the trial Court. Petitioner has no objection in case 16 kanals of his land is ordered to be attached for which he will give necessary particulars to the trial Court.

In view of aforesaid, this revision petition is allowed. Petitioner is directed to furnish details of 16 kanals of land to the trial Court and to complete necessary formalities thereof, in the context of land to be attached by the Court.

With this direction, petition is disposed of.

27.08.2015

vanita

**(RAJ MOHAN SINGH)
JUDGE**