

ESA-30-2015 (O&M)

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

**ESA-30-2015 (O&M).
Decided on: July 9, 2015.**

Lakhwinder Singh

... Petitioner(s)

VERSUS

Jagsir Singh

... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Baltej Singh Sidhu, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

Counsel for the appellant places reliance upon Section 60 (ccc) of CPC, as applicable in Punjab, to contend that the house of the appellant cannot be attached for execution of the decree for money passed against the appellant and in favour of decree holder-respondent. The Courts below have dismissed the objections filed by the appellant, inter alia, on the ground that he is not in occupation of the house and that he is staying near Chandigarh.

Counsel for the appellant has not been able to satisfy this Court that there is absolute bar for attachment and sale of the house in the name of the appellant which is not occupied by him and on account of non-available of any other accommodation. The appellant has to pay approximately a sum of Rs.8 lacs which includes interest calculated on the principal amount.

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No ground is made out for interference in the impugned order but it is observed that in case the appellant seeks to resist the attachment or sale of the house belonging to him he can always get an opportunity for determining the attachment by contesting the attachment as per the provisions of order XXI Rules 57 & 58 CPC or by filing an appeal against the judgment under Order XXI Rule 58(1) CPC. The sale can be resisted by following the provisions under Order XXI Rule 83 CPC by enabling the judgment debtor to raise the amount of decree without prejudice to other legal rights of the appellant.

Disposed of with liberty to the appellant to take necessary steps to set aside the decree and protect his house in accordance with law.

July 9, 2015.
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(M.M.S. BEDI)
JUDGE