

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

CACP 7 of 2015

Date of Decision : January 29, 2016

Attar Singh

.....Appellant

VERSUS

Gobinder Dass Dahiya

.....Respondent

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. Sanjeev Sharma, Advocate
for the appellant.

Mr. Ajay Dahiya, Advocate
for the respondent.

T.P.S. MANN, J.

Appellant-Attar Singh has filed the present appeal under Section 19 of the Contempt of Courts Act, 1971 for challenging the order dated 16.11.2015 (Annexure A-1) passed by the learned Single Judge in COCP 2740 of 2013 holding the appellant guilty for committing the contempt of the Court and ordering his imprisonment for a period of six months.

Briefly stated, the contempt proceedings were initiated against the appellant at the instance of Gobinder Dass Dahiya, respondent herein. He had pleaded in the contempt petition that he had filed a civil suit for recovery under Section 37 CPC which was decreed on 5.3.2003. In the execution petition filed by the

respondent, prayer was made for attachment and sale of movable and immovable properties of the appellant besides his arrest. Vide order dated 28.3.2003, the Executing Court restrained the appellant from alienating or creating any change on the property, as specified in the execution petition. Despite the same, the appellant sold 1/3rd share in 3 kanals 7 marlas of land. Even prior to the passing of the decree, the Civil Court had restrained the appellant from alienating the property or creating any change thereon. Vide order dated 27.1.2004, the Executing Court had ordered the attachment of the properties owned by the appellant including the aforementioned property. When the attachment was carried out by the revenue authorities, the aforesaid 1/3rd share of the appellant was left out ostensibly at the behest of the appellant, who manipulated the exercise of attachment. The respondent then moved an application before the Executing Court praying for initiation of contempt proceedings against the appellant as the aforementioned land stood sold by the appellant and the sale-deed was also executed under an assumed name. Thus, the appellant violated the orders of the Court and also defeated the process of law. Consequently, vide impugned order, learned Single Judge held the appellant guilty of committing contempt and ordered for his imprisonment for a period of six months.

The basic dispute between the parties was a summary suit for recovery which suit was decreed on 5.3.2003 by holding the respondent entitled to recover a sum of Rs. 11,90,733/- alongwith pendente lite interest @ 18% per annum. Some amount out of the same has already been paid by the appellant. In order to enable the parties to explore the chances of an amicable settlement, this Court referred the matter to the Mediation and Conciliation Centre of this Court. However, as per the report of Mediator, the parties could not settle the matter and, accordingly, the matter has been sent back to this Court.

At the time of hearing of the appeal, learned counsel for the respondent has stated that he has received an amount of Rs. 2,50,000/- from the appellant's daughter Smt. Seema by way of full and final settlement of all the claims of the respondent including the judgment and decree dated 5.3.2003 passed in Civil Suit No. 855 of 2001/2002 and Execution Petition No. 406 of 2003 pending in the Court of Civil Judge (Senior Division), Sonapat. He further states that the respondent will have no objection if the appeal filed by the appellant is accepted, the impugned order dated 16.11.2015 (Annexure A-1) is set aside and the appellant exonerated of the contempt charge.

Since the parties have entered into full and final settlement, the respondent shall have no right to initiate any proceedings of any nature whatsoever including execution

against the appellant for effecting any recovery of the decretal amount as per the judgment and decree dated 5.3.2003 passed in the aforesaid Civil Suit No. 855 of 2001/2002. This settlement shall be treated as full and final settlement in between the parties for all intents and purposes.

Accordingly, the appeal is accepted and impugned order dated 16.11.2015 (Annexure A-1) holding the appellant liable for committing contempt of the Court is set-aside. Rule discharged.

The appellant is presently confined in Model Jail, Burail, Chandigarh. He be released from custody forthwith unless wanted in some other case.

(T.P.S. MANN)
JUDGE

January 29, 2016
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(RAMENDRA JAIN)
JUDGE