

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

**CR No.1499 of 2013
Date of decision:29.04.2016**

Khurshid Ali ... Petitioner
Vs.

Dharamvir ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Ashwarya Bajaj, Advocate, for
Mr. Saurabh Bajaj, Advocate
for the petitioner.

Mr. R.S.Mamli, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

Petitioner-decree holder is aggrieved of the impugned order dated 18.09.2012 (Annexure P-6), whereby, appeal filed against the dismissal of the objections at the instance of the judgment debtor by invoking the provisions of Order 21 Rules 97 and 99 of the Code of Civil Procedure (in short 'CPC'), has been allowed.

Mr. Ashwarya Bajaj, learned counsel appearing on behalf of the petitioner-decree holder submits that judgment debtor cannot be permitted to file the objections under Order 21 Rules 97 and 99 of the CPC as the said provisions apply to third party. At the best, in case, there was some error in the decree or mis-representation in seeking adjudication, the objections could have been filed under

Section 47 of the CPC. The objection petition has been dismissed and accordingly, the appeal was filed. The appeal cannot be filed when the judgment and decree dated 31.10.2003 has attained finality. The Lower Appellate Court has assigned no reasons in dismissing the application and appeal is stated to be pending adjudication.

Mr. R.S.Mamli, learned counsel appearing on behalf of the respondent-judgment debtor submits that specific objection had been taken regarding the purchase of share in the disputed property and therefore, the decree has become un-executable. The objections were dismissed and against dismissal of the same, as per the provisions of Order 21 and Rules 101 and 102 of the CPC, appeal lies and rightly so, the same has been filed.

I have heard learned counsel for the parties and appraised the paper book and of the view that appeal at the instance of the judgment debtor against the dismissal of the objections filed under Order 21 Rules 97 and 99 of the CPC is not maintainable. Judgment debtor is not a third party, whereas, the provisions aforementioned of CPC apply to third person, who, cause obstruction for taking possession and shows resistance. At the best, remedy if any, was to file revision to point out whether there was any illegality or perversity, much less, the order has been passed without jurisdiction but not in the manner and mode as has been adopted. Accordingly, the impugned order is set aside and appeal at the

instance of the respondent is not maintainable and is ordered to be dismissed.

Liberty is granted to the respondents to impugn the order dated 08.03.2010, in accordance with law.

Revision petition stands allowed.

(AMIT RAWAL)
JUDGE

April 29, 2016
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