

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CR-179-2016 (O&M)
Date of Decision:-22.12.2016

Radha Krishan

.....Petitioner

V/S

Ramesh Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present : Mr. Jaswant Jain, Advocate,
for the petitioner.

Mr. Gulshan Mehta, Advocate,
for the respondent.

Darshan Singh, J. (Oral)

The present revision petition has been preferred against the order dated December 21, 2015 passed by the learned Additional District Judge, Hisar, whereby the appeal filed by the JD/objector against the order dated January 08, 2015 passed by the learned Civil Judge (Junior Division), Hisar, dismissing his objections, was allowed and the decree dated November 03, 2006 was modified.

2. Learned counsel for the petitioner contended that as the respondent-JD was a party to the decree, the said objections were filed under Section 47 of Civil Procedure Code, 1908 (for short 'CPC'). He contended that the order dismissing the objections under Section 47 of CPC is not appealable. The only remedy available to the respondent-JD was to challenge that order by way of filing the revision petition. He relied upon the cases *Jagat Ram and others V/s Jagjit Singh 1984(1)*

RCJ 447, M/s Bansal Engineering Works V/s M/s Dosajh & Company 1993(2) R.R.R. 531, Harbans Singh V/s Harbhajan Singh and Another 1987 R.R.R. 628 and Ram Niwas V/s Mithan Lal and Others 1979 CLJ (Civil) 497.

3. In view of the legal position laid down in the judgments referred above, learned counsel for the respondent contended that the impugned order dated December 21, 2015 passed by the learned Additional District Judge, Hisar may be set aside as the appeal was not maintainable. However, the respondent-JD should be granted liberty to challenge the impugned order dated January 08, 2015 by availing the appropriate remedy of civil revision and to approach this Court under Article 227 of the Constitution of India.

4. In view of the aforesaid, as the legal position is crystal clear that where the objections filed by the JD under Section 47 CPC are decided that order is not appealable. Reference can be made to the cases ***Jagat Ram and others V/s Jagjit Singh*** (supra), ***M/s Bansal Engineering Works V/s M/s Dosajh & Company*** (supra), ***Harbans Singh V/s Harbhajan Singh and Another*** (supra), ***Ram Niwas V/s Mithan Lal and Others*** (supra), ***Dhusasan Nayak V/s Dhadi Nayak and Others AIR 1983 (Orissa) 127 (DB) and Kailash Chand adopted son of Amrit Lal V/s Hariraj Sarup and Others 1980(1) R.C.R. (Rent) 516.*** The only remedy available to the aggrieved party will be of revision etc.

5. So, the present revision petition is hereby allowed. The order

dated December 21, 2015 passed by the learned Additional District Judge, Hisar is hereby set aside. The respondent-JD shall be at liberty to avail the appropriate legal remedy available to him to challenge the order dated January 08, 2015 in accordance with law.

DECEMBER 22, 2016
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(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No