

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

C.R. No.2016 of 2016

Date of Decision.17.03.2016

Jagroop Singh alias Jaggu and others

.....Petitioners

Vs.

Surjit Singh (now deceased) through LR

.....Respondent

Present: Mr. Amandeep Singh Cheema, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The revision petition is against an objection taken by the judgment debtor at the stage of execution that the creditor is proceeding against the separate property when the creditor could have the benefit of enforcement of the decree only against the property of the father. So long as the decree is personal and it does not contemplate enforcement of the claim against the estate of the father in the hands of the defendant, the decree holder is entitled to proceed against the separate property. The counsel says that there is a second appeal pending before this Court against the decree passed. If there is a second appeal, the only forum before which he can canvass for the non-enforceability of the decree is the second Appellate Court itself where by an order of stay further process could be stayed. Otherwise, the Executing Court is not required to entertain any objection at the instance of the judgment debtor.

2. There is also another objection that the creditor is trying to make the enforcement only against him and three others when there is 5th person who is also liable. In India, the liability is joint and several and the creditor is entitled to proceed against any one or all the judgment debtors. Only a judgment debtor can seek for contribution against other judgment debtors who are also bound by the decree. The creditor cannot be forced to make any apportionment of claim against each one of the judgment debtors.

3. The objection taken was rightly rejected by the Executing Court and I will find no cause for interference in the revision petition. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 17, 2016
Pankaj*