

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

**CR No.4056 of 2016
Decided on: 29.07.2016**

Varinder Singh

....Petitioner

Versus

Punjab National Bank and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Mohd. Yousaf, Advocate
for the petitioner.

REKHA MITTAL, J.

The present petition has been directed against order dated 08.04.2016 (Annexure P-6) passed by the Civil Judge (Jr. Division), Dhuri whereby the objections preferred by the petitioner against attachment of property of the JD has been dismissed.

Counsel for the petitioner has submitted that the property attached in execution of the decree is the only residential house of the JD, thus the same is exempted from attachment and sale under Section 60(C) of the Code of Civil Procedure.

The Executing Court, in para 3 of the order has noticed contention of counsel for the decree-holder that the JD had mortgaged the property in question to the decree-holder – Bank and claim for recovery by way of attachment and sale of mortgage property was allowed in favour of the decree-holder. As the plot measuring 03 biswas 04 biswas with specific dimensions and boundaries on which the building in question has been constructed was mortgaged with the bank for repayment of the loan amount, the JD cannot be heard to say that the

site in question cannot be put to auction for realization of the decretal amount. No one can be allowed to take the law in his own hands nor can be allowed to avoid liability *qua* property in regard whereof security has been created in favour of the bank at the time of securing a loan. That being so, I do not find any error much less illegality in the impugned order warranting intervention.

Dismissed.

29.07.2016
yakub

(REKHA MITTAL)
JUDGE

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