

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

CR No.4512 of 2016

Date of Decision: 19.08.2016

Amandeep Singh and others

.....Petitioners

Vs

Kulwant Singh

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.N. Sharma, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Petitioners are aggrieved of order dated 19.04.2016 passed by Additional Civil Judge (Senior Division), Zira vide which application under Order 1 Rule 10 CPC and for setting aside the ex parte order dated 18.10.2014 against the judgment debtor was declined.

[2]. The legal representatives of Ranjodh Singh-judgment debtor sought to be impleaded as party and thereafter, sought to annul the order dated 18.10.2014 vide which judgment debtor-Ranjodh Singh was ordered to be proceeded against ex parte and thereafter, he died on 03.09.2015. It appears that petitioners made composite prayer.

[3]. Apparently, Ranjodh Singh was a judgment debtor. In execution, he appeared through his counsel on 13.12.2014 and admitted the claim of the decree holder, rather prayed for fixing installments for payment of decretal amount by him. The said prayer was dismissed by the Executing Court on 05.07.2014. Thereafter, Ranjodh Singh died on 03.09.2015. In execution of decree, property of the judgment debtor was attached and it was auctioned. The sale has already been confirmed by the Court. Only sale certificate is to be issued for which the Court directed the decree holder to supply the requisite stamp papers.

[4]. After attachment of the property for recovery of the decretal amount, the petitioners could have availed remedy in terms of Order 21 Rules 89, 90 CPC within specified period of 60 days. No such objection was filed by the judgment debtor within specified period of 60 days. After auction of the land and confirmation thereof, no such relief by way of impleading the legal representatives of judgment debtor and for setting aside the order dated 18.10.2014 vide which judgment debtor-Ranjodh Singh was proceeded against ex parte, can be granted at this stage.

[5]. This Court is of the considered view that no indulgence can be granted to the petitioners in view of the fact that alternate remedy available to the judgment debtor/petitioners was not

availed by them and under the garb of application under Order 1 Rule 10 CPC at such a belated stage, auction/sale that has already been confirmed cannot be put in reverse direction. No jurisdictional error at the instance of the trial Court could be pointed out by the learned counsel for the petitioners. Consequently, this revision petition is found to be totally bereft of merits and the same is accordingly dismissed.

19.08.2016

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No