

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4459 of 2013
Date of Decision: February 26, 2016

Harish Chander & others

...Petitioners

Versus

Tirath Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Akash Singla, Advocate,
for the petitioners.

Mr.Harsh Aggarwal, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

In pursuance to the order dated 29.1.2016, affidavit filed today
in Court, is taken on record.

The petitioner-judgment debtors are aggrieved of the order
dated 15.9.2012, whereby the objections vis-a-vis the execution of the
judgment and decree dated 2.6.2009, have been dismissed.

Mr.Akash Singla, learned counsel appearing on behalf of the
petitioner-judgment debtors submits that the petitioner-J.Ds., who are the
legal representatives of deceased Babu Ram, sought indulgence of the
Executing Court by taking the aid of provisions of Section 60(1)(ccc) of the
Civil Procedure Code as the house sought to be attached for execution of
the decree was the only house belonging to them, which, they have inherited

by way of succession on the demise of their father. The trial Court has

erroneously declined the objections as the defence taken is also available to the petitioners and not only to the L.Rs. He further submits that the suit was filed against a dead person in 2008 as Babu Ram died in 2007.

Mr. Harsh Aggarwal, learned counsel appearing on behalf of respondent No.1-decree holder submits that the suit actually was filed on 20.3.2006 and, therefore, there is no substance in the plea of Mr. Singla vis-a-vis the suit having been filed against the dead person. In support of his submission, he submits that the aforementioned proposition of law has already been laid down by this Court in **Pargat Singh and another Versus Gurmail Kaur and others**, 2015(2) PLR 397, wherein this Court, while relying upon the judgment rendered in **K.L.Bawa Versus Basant Textiles**, 1982 PLR 258, held that the L.Rs. of the deceased shall not be entitled to take the benefit of Section 60(1)(ccc) CPC and prays for dismissal of the revision petition.

I have heard the learned counsel for the parties and appraised the paper book and am of the view that there is no substance in the submissions made by the learned counsel for the petitioners. The judgment has been passed against Babu Ram in a suit filed on 13.3.2008. The L.Rs cannot take the benefit of the provisions of Section 60(1)(ccc) CPC by saying that the only house belonging to the judgment debtors cannot be attached. This plea, in view of the ratio decidendi culled out in **Pargat Singh's case (supra)** is not available to the L.Rs. For the sake of brevity, the findings rendered by this Court read thus:-

“14. Section 60 of the CPC deals with attachment and sale of the property in execution of the decree but there are certain exemptions in which Section 60(c) of the CPC which provides

that the houses and other buildings with the material and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment belonging to an agriculturist or a labourer or a domestic servant and occupied by him cannot be attached and sold. In Section 60(1)(c) of the CPC, there are further additions by the State of Punjab, which is referred here-in-above, in which we are concerned with Section 60(1)(ccc) of the CPC which provides that one main residential house and other buildings attached to it belonging to the judgment debtors other than an agriculturist and occupied by him is also exempted.

15. However, in the present case, the protection claimed by the defendants is not available to them as held by this Court in Shri K.L.Bawa's case (supra) in which it has been held that the protection under Section 60(1)(ccc) of the CPC is available to the judgment debtor and not to his heirs.”

In view of the aforementioned facts and circumstances, I am in agreement with the findings rendered by the trial Court, whereby the objections have been dismissed and, thus, the same are upheld.

No ground is made out for interference.

The revision petition stands dismissed.

February 26, 2016
ramesh

(AMIT RAWAL)
JUDGE