

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

C.R. No.4864 of 2016
Date of Decision.11.08.2016

Jarnail Singh and others

.....Petitioners

Vs.

Ujjagar Singh and others

.....Respondents

Present: Mr. Parshotam Lal Singla, Advocate
for the petitioners.

AMIT RAWAL J. (ORAL)

Mr. Parshotam Lal Singla, learned counsel appearing on behalf of the petitioners submits that the civil suit No.12 dated 17.01.2007 filed by Ujjagar Singh against the firm and their partners namely Jagmohan Singh and Sukhminder Singh was decreed by the trial Court on 13.09.2012 for recovery of ₹2,44,975/- and the execution petition has been filed for ₹4,37,908/-. The conceded position on record is that before filing of the suit, Baldev Singh, defendant No.4, vide two transfer deeds dated 07.08.2006 and 08.08.2006, transferred all his property to the petitioners. The decree holder, as per the execution petition (Annexure P-2) impleaded Harminder Singh as additional-respondent No.1, who stated to have acquired the right and interest in the property by virtue of first sale deed effected on 26.03.2009 by defendant No.2 Jagmohan Singh and also the petitioners i.e. Jarnail Singh, Jaspal Singh and Jaswant Singh, impleaded as additional respondent Nos.2 to4 and thereafter, moved a supplementary application (Annexure P-4) dated 18.12.2013 and sought attachment of the land of petitioners only by taking the benefit of provisions of Section 53 of the Transfer of Property Act. The objection petition at the instance of the petitioners i.e. additional respondent Nos.2 to 4 has been dismissed by impugned order and only property of the

petitioners has been sought to be attached. He submits that the liability of the defendants in the decree (Annexure P-1) is joint and several. The decree holder cannot confine attachment of the property *viz-a-viz* additional respondents No.2 to 4 only.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that no doubt, the aforementioned transactions are hit by provisions of Section 53 of the Transfer of Property Act but the manner and mode, in which the decree holder had moved the application (Annexure -4), tantamounts to pointing the cannon only towards the petitioners by ignoring the additional respondent No.1, Harminster Singh. The Executing Court should have noticed the aforementioned fact and should not have allowed the application (Annexure P4) vide impugned order against additional respondent Nos.2 to 4 but it should have also been passed against additional No.1-Harminster Singh.

For the reasons aforementioned, I am of the view that impugned order is liable to set aside and the matter is remitted back to the Executing Court to decide the application (Annexure P-4) afresh by taking into consideration the 1st execution application (Annexure P-2) whereby Harminster Singh was impleaded as additional respondent No.1 and proceed in accordance with law i.e. as per the judgment and spirit of the judgment and decree. The above-mentioned exercise shall be done within one month.

The impugned order is set aside and the revision petition is allowed, dispensing with notice to the respondents.

(AMIT RAWAL)
JUDGE

August 11, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No