

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

CM Nos.19634 & 19635-CII of 2015 In/&
CR No.5130 of 2013 (O&M)
Date of decision : 28.04.2016

Mohinder Singh

...Petitioner

Versus

Mangi Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Mohinder Singh and Mr. Gian Singh attorney of petitioner-
Mohinder Singh in person.

Mr. Naresh Jain, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

Petitioner-Objectors are aggrieved of the impugned order dated 22.02.2013, vide which the objection seeking execution of the judgment and decree dated 03.04.2007, has been dismissed and order dated 27.07.2013, whereby appeal filed against the aforementioned order, has also been dismissed.

It has been contended that suit for recovery of ₹1,00,000/- (i.e. ₹88,000/- as principle amount and ₹12,000/- as interest) i.e. at the rate of 15% p.a. from the date of realisation till the date of decree and future

interest @ 12% was decreed. The said decree has attained finality but the objection was filed that the decree has been obtained by playing fraud. It has been contended that both the Courts below have not appreciated the facts that decree holder had taken undue advantage by showing his own calculations by adding excess amount of ₹6600/- and interest of ₹1,12,750/- vide which he had no right. As a matter of fact, Decree Holder also added a sum of ₹1100/- as cost of application and ₹5500/- counsel fee which was beyond the decree. The judgment and decree dated 03.04.2007 had been obtained by playing fraud and forgery, in essence, the pronote and receipt in connivance with Pola Ram Havildar and YK Sharma Advocate was forged and fabricated. The pronote dated 12.05.2000 of ₹50,000/- did not bear the signatures of Mohinder Singh. Plaintiff in order to give the legal shape to the pronote, connived with Pola Ram and prepared a pronote of ₹88,000/- which has been proved by writing obtained by the respondent in Police Station Odhan, from the petitioner. Previous note was not produced in the Court but only fresh pronote and receipt of ₹88,000/- was produced as pronote of ₹50,000/- was seen in the Police Station. All these factors have not been noticed by the Executing Court, much less, Appellate Court, thus, there is illegality and perversity.

Mr. Naresh Jain, learned counsel appearing on behalf of respondent submits that Executing Court cannot go beyond the decree. Suit was filed by the respondent-plaintiff and appeal filed was decided and attained finality. It is a matter of record that Mohinder Singh had also filed suit for permanent injunction seeking restraint order against the plaintiff Mangi Jain in civil Suit No.732 of 2003 for recovery of an illegal amount of

₹50,000/-. Same was dismissed by invoking the provision of Order 17 Rule 2 and 3 vide judgment and decree dated 24.09.2004.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no substance and force in the revision petition, much less, in the statement of Mr. Gian Singh attorney of Mohinder Singh. Mr. Naresh Jain, appraised the Court that on two occasion, this Court had provided services of lawyer from Front Office of this Court but every time allegations had been levelled that counsel did not perform his duty. It is in these circumstances, Mohinder Singh chosen to argue this matter through attorney Gian Singh. Judgment and decree aforementioned is for the amount as mentioned above. Role of the Executing Court is not to go behind the decree but to execute the same. The petitioner-defendant did not file any appeal and judgment and decree has attained finality. The grounds which have been taken in the revision petition could have been taken in the appeal.

Accordingly, impugned order under challenge is hereby upheld.

Revision petition is dismissed.

28.04.2016

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**(AMIT RAWAL)
JUDGE**