

260

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

**CR-5367-2015 (O&M)
Date of decision : 25.07.2016**

Gulzari Lal

... Petitioner

Versus

Inderjit Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

Mr. Premjit Kalia, Advocate
for respondent No.1.

Mr. V.P. Arora, Advocate
for respondent No.3.

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?

AMIT RAWAL, J. (ORAL)

The petitioner-defendant is aggrieved of the dismissal of the application seeking setting aside of the *ex parte* order dated 24.03.2014 in an execution petition filed under Order 21 Rule 32 Code of Civil Procedure.

Mr. V.K. Sandhir, learned counsel appearing on behalf of the petitioner-judgment debtor submits that the judgment and decree dated 31.05.2004 had attained finality. The respondent No.1-decree holder moved an application under Order 21 Rule 32 CPC for execution of the aforementioned judgment and decree, in which, the petitioner-judgment

debtor was proceeded *ex parte* on 24.03.2014. The nomenclature in the application was wrongly mentioned as Order 9 Rule 13 CPC, whereas it should have been only Section 151 CPC and in view of the impugned order, the property of the petitioner-judgment debtor has been attached. He submits that he may be granted one effective opportunity to contest the application by filing the reply in accordance with law.

Mr. Premjit Kalia, learned counsel appearing on behalf of the respondent No.1-decree holder submits that the petitioner-judgment debtor was properly and validly served and an application moved intentionally was in order to protract the execution of the judgment and decree aforementioned. He submits that at the best, the petitioner-judgment debtor can be given one opportunity to satisfy the Court whether he was duly served in the petition filed under Order 21 Rule 32 CPC or not?

I have heard the learned counsel for the parties and appraised the paper book and of the view that the petitioner-judgment debtor has not challenged the judgment and decree aforementioned, which, thus, has attained finality, but he should be granted a chance to give the explanation before the Executing Court of non-appearance on the date fixed, but that time, the property of the petitioner-judgment debtor should not have been attached.

For the foregoing reasons, the impugned order dated 19.09.2014 is hereby set aside and the petitioner-judgment debtor is granted one effective opportunity to file an application/reply seeking setting aside of the *ex parte* proceedings initiated under Order 21 Rule 32 CPC duly supported by an affidavit, within a period of two weeks. In case, such

application/reply is filed, thereafter, the respondent No.1-decree holder shall file the reply thereto within a period of two weeks. The trial Court is directed to decide the aforementioned application as expeditiously as possible preferably within a period of five months from the receipt of the certified copy of this order.

In the meantime, the attached property of the petitioner-judgment debtor neither shall be sold nor the possession shall be disturbed.

With the aforesaid observations, the revision petition stands disposed of.

25.07.2016
yogesh

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**