

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

C.R. No.5844 of 2016 (O&M)

Date of Decision.07.09.2016

M/s Krishan Gopal & Company

.....Petitioner

Vs.

Deepak Gupta and others

.....Respondents

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The decree-holder is aggrieved of the impugned order passed by the Court below while entertaining the objections whereby the Court below framed the issues without allowing opportunity for hearing, despite the fact that the objections were duly replied.

Mr. Rahul Bhargava, learned counsel appearing for the petitioner-decree holder submits that the civil suit bearing No.223 of 24.03.1994 was decreed on 12.05.1999 and the appeal filed against the same was also dismissed. The judgment and decree in the suit was for a recovery of ₹2,60,418.86 along with interest @12% during the pendency of the suit and in future @6% per annum and the execution was sought. The other judgment debtor filed the objections which were dismissed. It is a third round of litigation at the instance of the legal representatives of defendant Nos.3 and 4 and the Court below without appreciating the facts straightway framed the issues. The order under challenge is a non-speaking order.

I have heard learned counsel for the petitioner and appraised the paper book. The order impugned reads thus:-

“Present: Sh. Mohit Puri, counsel for DH.

Sh. S.N. Chopra, counsel for the objector.

Heard. From the pleadings of the parties following issues are framed:-

- 1. Whether the objection petition under Order 21 Rule 58 and under Order 21 Rule 67 CPC filed by Deepak Gupta are liable to be allowed? OP Objector*
- 2. Whether objection petition is not maintainable? OPD*
- 3. Relief.*

No other issues arise or pressed. PF/DM and list of witnesses, if any, be filed within stipulated period. OWs be produced on 2.8.2016. It is made clear that both the parties shall be given three opportunities to lead their evidence.

-sd-

(Jasvir Singh)

ACJ (SD) Amloh

It is a matter of record that once the objections have been filed and duly replied, the Court ought to have granted the opportunity to parties to address arguments as to whether, prima facie, the objections should be decided summarily or framing of issues but not in the manner and mode as has been done. In my view, the trial Court should be wary and careful in following the procedures prescribed under Order 21 CPC. If such orders are accepted then every judgment debtor after having failed to succeed despite availing statutory remedy, will file the objections and the decree would be thwarted. Such a practice, in my view, is liable to be deprecated.

For the reasons aforementioned, the impugned order is set aside and the matter is remitted back to the trial Court to give opportunity to parties to address arguments, whether it is a fit case of treating the objection

issues but not in the mode and manner as noticed above.

I refrain myself from issuing notice of motion to other party/respondents to defray the costs of litigation of the parties, much less, the order is against the statutory provisions of law. The trial Court is directed to decide objections in the manner indicated above. The revision petition stands disposed of with the above observations.

(AMIT RAWAL)
JUDGE

September 07, 2016
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No