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

C.R. 6339 of 2016
Date of Decision.28.09.2016

M/s Radha 'C' Sons .....Petitioner

Vs.

Deepak Gupta and others .....Respondents

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

-.-

AMIT RAWAL J. (ORAL)

The petitioner-decree holder submits that the impugned order entertaining the third party objection purportedly under Order 21 Rule 58 CPC by framing issues without allowing opportunity of hearing is non speaking. In support of his contention he relies upon judgment rendered by this Court between the decree holder and third party objectors arising out of the identical matter in C.R. No.5844 of 2016, wherein similar order was challenged and this Court vide order dated 07.09.2016 has set aside the order and remanded back the matter.

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*

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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 to be third party or whether it has to be decided summarily or framing of the 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 28, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No

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