

Civil Revision No.6553 of 2015

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.6553 of 2015

Date of Decision: 6.10.2016

Randhir Singh

---Petitioner

versus

Dharam Pal

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. A.K.Bura, Advocate
for the petitioner**

**Mr. Rajinder Goel, Advocate
for the respondent**

Rekha Mittal, J.

The present petition has been directed against order dated 21.5.2015 (Annexure P-8) passed by the Additional Civil Judge (Senior Division), Kaithal whereby application filed by the petitioner for setting aside order dated 23.3.2013 for attachment of salary of the

petitioner/judgment-debtor, has been dismissed.

The sole submission made by counsel for the petitioner is that as the petitioner has already filed an application for setting aside the ex parte judgment and decree dated 18.8.2012 and proceedings dated 3.4.2012 (Annexure P-6) and another application has been filed for stay of operation of the ex parte judgment and decree dated 18.8.2012, the respondent/decreed-holder cannot proceed with the execution proceedings till the time the application for setting aside ex parte judgment and decree is decided by the trial court.

Counsel for the respondents, on the contrary, has submitted that as the ex parte judgment and decree dated 18.8.2012 was sought to be executed in the execution petition filed well before expiry of two years, there is no requirement in law to issue a notice to the judgment-debtor. It is further submitted that as the judgment-debtor refused to accept notice, there was no option with the court except to proceed with the execution for satisfaction of the decree for recovery passed in favour of the decree holder.

I have heard counsel for the parties, perused the paper book particularly the order impugned but find that the petition sans merit and deserves to be dismissed.

The mere fact that the petitioner/judgment-debtor has initiated proceedings for setting aside ex parte judgment and decree dated 18.8.2012 or has filed an application for stay of operation of the ex parte judgment and decree is not sufficient to stall the execution process unless the application filed by the petitioner in the aforesaid proceedings is allowed by the court. In this view of the matter, I do not find any error much less illegality in the order impugned warranting intervention.

Dismissed.

(Rekha Mittal)
Judge

6.10.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No