

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

C.R. No.673 of 2016 (O&M)
Date of Decision.02.02.2016

Ram Dutt

.....Petitioner

Vs.

Nand Kishore

.....Respondent

Present: Mr. Gorav Kathuria, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

-.-

K. KANNAN J. (ORAL)

1. A judgment debtor is aggrieved that a portion of the decree amount of what he was prepared to pay through a demand draft, the Executing Court was not prepared to receive and it was putting up the property for sale in attachment already effected.

2. There is no way that an Executing Court can refuse to perform a duty which it is bound to do when an application for deposit of the amount of any portion of the amount is brought by a judgment debtor. If a demand draft is brought and part satisfaction is sought by the judgment debtor, the Court is bound to issue notice to the decree holder and record the part satisfaction and the Court is at all time at liberty to put up the property for sale for the remaining amount of what is due and payable. The Court will consider at such a time whether the whole of the property would require to be sold or if it can be split into lots and a lot which is equivalent to value to the amount which is due

and payable after giving satisfaction to a portion of the decree claim, is alone directed to be sold. This the Court may do considering the fact that there is no vice of excessive attachment of bringing more property than what is essential for realization of the balance of amount that is recoverable after giving credit to the amount which the judgment debtor is willing to deposit.

3. The order already passed is modified and the revision petition is disposed of at the stage of admission dispensing with notice to the respondent. I have not thought it necessary to join the respondent-decree holder only because I am merely applying the provisions of the CPC for setting out the procedure to be followed by the Executing Court that will subserve justice without wasting my further time. The petitioner will be at liberty to apprise the Court about the nature of order that has been passed and if need be, in case any application for postponement of the sale is filed, the Court will apprise itself about the nature of order from this Court.

4. A copy of this order be issued dasti on payment of usual charges.

(K. KANNAN)
JUDGE

February 02, 2016
Pankaj*