

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

CR No.7075 of 2015 (O&M)

Date of decision : 29.04.2016

Rajwant Kaur

...Petitioner

Versus

Gurbachan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Raman Goklaney, Advocate for the petitioner.

Mr. Vinod Khunger, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

Surety of the Judgment Debtor is aggrieved of the impugned order (Annexure P-17), whereby objections have been dismissed and order (Annexure P-18) whereby decree has been satisfied on account of statement suffered by the Decree Holder and as well as issuance of the sale certificate.

It would be apt to give brief preface of the matter. The respondent-Decree Holder namely Harphool Singh filed civil suit bearing No.86 of 2007 for recovery of ₹5,00,000/- as principal amount and ₹1,70,000/- as interest at the rate of 12% p.a. from the date of pronote dated 02.11.2005 till the date of filing of the suit. The judgment and decree was

passed by the trial Court on 05.01.2011, whereby the aforementioned amount of ₹5,00,000/- along with interest @ 12% p.a. from the date of pronote till filing of the suit and interest at the rate of 6% p.a. from 19.04.2007 till realisation of the decretal amount, has been passed. As a consequence thereof, execution application was filed and property belonging to surety as per provision of Order 21 Rule 66 of the Code of Civil Procedure was sought to be attached and thereafter put to sale by way of auction. The auction proceeding was conducted on 03.03.2014 whereby Gurbachan Singh had purchased the property by giving highest bid of ₹7,23,000/- It is a matter of record that aforementioned amount has been deposited. The petitioner-surety in pursuance to the notice of motion order dated 20.10.2015 deposited the amount as ordered by this Court i.e. sum of ₹7,00,000/- within 15 days and factum of same is reflected in the order dated 04.11.2015 of Addl. Civil Judge (Sr. Division), Ferozepur. Certified copy of same has been handed over to the Court during the course of hearing.

Learned counsel for the petitioner submits that once the petitioner has shown the intention to satisfy the decree, auction in favour of respondent be set aside. He is willing to compensate the auction purchaser with reasonable interest, since the land having more value has been sold for paltry amount. Order dated 04.11.2015 reads thus:-

“Present:- Sh. M.K. Handa, Adv. Counsel for the applicant.

Applicant Rajwant Kaur wife of Sarwan Singh moved an application for allowing her to deposit Rs.7,00,000/- and produced order of Hon'ble High Court

dated 20.10.2015. As per this order the applicant was directed to deposit Rs.7 lacs i.e. surety and the dispossession of Rajwant Kaur was ordered to be stayed. In compliance of the orders of Hon'ble High Court the applicant deposited an amount of Rs.7 lacs on 30.10.2015 and Sarwan Singh deposited an amount of Rs.13552/- on 3.11.2015. Original receipt challan with regard to the deposit of amount are placed by the applicant. File be consigned to the record room.

Dated: 04.11.2015

Sd/- (Ravi Inder Kaur)

Addl. Civil Judge (Sr. Division)

Ferozepur.”

This fact has not been disputed by Mr. Vinod Khunger. Learned counsel submits that even the Decree Holder has deposited ₹1,87,000/- and decree has been satisfied which fact is evident from the order dated 19.08.2015 (Annexure P-17). As per the order of Additional Civil Judge (Sr. Division) Ferozepur dated 28.04.2014, Decree Holder submitted application for release of recovered amount by way of auction i.e. sum of ₹7,23,000/-. It has been brought to the notice of this Court that Decree Holder had moved application for withdrawal. Since the petitioner has shown intention to satisfy the decree, I deem it appropriate to set aside the auction dated 03.03.2014 and as well as sale certificate with following conditions:-

1. In case auction money stated to have been deposited vide Voucher No.88 has not been disbursed to the decree holder, the aforementioned auction money shall be returned to Auction Purchaser. However Decree Holder shall be liable to pay interest at the rate of 12% p.a. from the date of auction i.e. 03.03.2014 upto

20.10.2015.

2. ₹7,23,000/- is directed to be released to the Auction Purchaser-responder No.1 along with interest @ 12% p.a. from the date of auction i.e. 03.03.2014 till 20.10.2015.
3. The petitioner shall not object before the trial Court in case such application is moved by auction purchaser and the interest aforementioned shall be paid within a period of one month failing which order under challenge shall become enforceable.

Accordingly, auction dated 03.03.2014 and Sale certificate (Annexure P-18), are hereby set aside. In case aforementioned payment is not made, sale certificate came into force immediately thereafter.

Accordingly, revision petition stands disposed of in the aforementioned terms.

29.04.2016

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**(AMIT RAWAL)
JUDGE**