

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

**CR No.7375 of 2015 (O&M)
Date of decision:18.02.2016**

Sneh Malhotra

... Petitioner

Vs.

Sanjeev Bhalla 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. A.S.Grewal, Advocate, for the petitioner.

AMIT RAWAL J. (Oral)

C.M.No.3722-CII-2016

Allowed as prayed for.

CR No.7375 of 2015 (O&M)

The petitioner/judgment-debtor is aggrieved of the dismissal of the objections vis-a-vis execution of ex parte judgment and decree dated 23.01.2010.

Mr. A.S.Grewal, learned counsel appearing on behalf of the petitioner-judgment debtor submits that ex parte judgment and decree has been obtained by playing fraud upon the petitioner. The suit for possession, in the absence of title was not maintainable.

Though the application under Order 9 Rule 13 of the Code of Civil Procedure, for setting aside of the ex parte judgment and decree dated 23.01.2010 was filed but the same was dismissed by executing Court vide order dated 21.09.2015 which has been assailed, by filing an appeal before the District Judge. However, respondent No.1 filed an application seeking execution of the aforementioned judgment and decree dated 23.01.2010 to which the objections were preferred and the same have erroneously been dismissed on the frivolous ground vide order dated 30.09.2015, much less, lacking reasons. Whereas, in fact, execution of the judgment and decree has been stayed by the Lower Appellate Court, thus, prays for setting aside of the impugned order.

I have heard learned counsel for the petitioner-judgment debtor and appraised the paper book and am of the view that there is no substance in the aforementioned submissions, as the remedy for challenging the ex parte judgment and decree was only to move an application under Order 9 Rule 13 of the Code of Civil Procedure or file an appeal. The petitioner-judgment debtor has already availed remedy by filing an application, aforementioned, before the Lower Appellate Court. Since, the execution of the judgment and decree has been stayed, no cause of action survived to file objections as the Executing Court cannot go beyond the decree.

In view of the aforementioned observations, there is no merit in the revision petition and the impugned order cannot be said

to have been passed without jurisdiction.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

February 18, 2016
savita