

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

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CR 7364 of 2013 (O&M)
Date of decision: 04.11.2016

Balwinder Kaur and others

..... Petitioners

Versus

State Bank of India

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Tushant Deep Garg, Advocate
for the petitioners

None for the respondent

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Rekha Mittal, J. (oral)

The present petition has been directed against order dated 01.10.2013 (Annexure P1) passed by Civil Judge (SD) Barnala whereby objection petition filed by the legal representatives of Surjit Singh-Judgment debtor (since deceased) has been dismissed.

The State Bank of India filed a suit for recovery of Rs.88,824.00, payable with interest against Surjit Singh and Harpreet Singh and the same was decreed vide judgment and decree dated 06.03.2002. The decree holder-Bank filed an application for execution of the decree wherein objections against attachment of residential house by Balwinder Kaur etc. legal representatives of Surjit Singh (since deceased) were filed.

The executing Court after having heard counsel for the parties in the light of their respective pleadings and rival submissions negated plea

of the objectors that the house in question cannot be attached or sold for realization of decretal amount payable by Surjit Singh (JD) predecessor-in-interest of the objectors.

Counsel for the petitioners has submitted that the legal representatives of deceased Surjit Singh are not in a position to put forth any proposal to the Bank either for settlement of dispute much less to discharge their liability under the decree. It is further submitted that Balwinder Kaur widow of the deceased has also passed away and the minor children of Surjit Singh are residing in the house in question and would be rendered homeless in case the house is put to auction for realization of the decretal amount.

I have heard counsel for the petitioners and perused the paper book particularly the order impugned.

Indisputably, a money decree has been passed in favour of the respondent-Bank as far back as in 2002. After departure of Surjit Singh-JD (since deceased), the decree could be satisfied from the assets left behind by the deceased (JD). It is none of the plea of the objectors that the residential house sought to be attached and put to auction for realization of decretal amount was not owned by Surjit Singh (since deceased). The legal representatives of the deceased are not competent to seek exemption from attachment and sale of the property in question on a plea that this is the only residential house left behind by Surjit Singh-judgment debtor. Under the circumstances, I do not find any error much less illegality in the impugned order as would call for intervention.

For the foregoing reasons, the instant petition fails and is

accordingly dismissed. However, in case the children of deceased Surjit Singh come up with a proposal for settlement of the dispute before the property in question is put to auction, the Bank would be at liberty to consider the same sympathetically.

(Rekha Mittal)
Judge

04.11.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No