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

**Civil Revision No.114 of 2016
Date of Decision: 22.08.2017**

**AMAR KAUR THROUGH LRS. NARAIN SINGH & ANR
.....Petitioners**

Vs

**PAVITTAR MUNI CHELA
....Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. N.S. Sodhi, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (Oral)

[1]. The present petition has been listed by the Registry for impleading legal representatives of the deceased respondent by learned counsel for the petitioners. The same is taken up for final disposal with the concurrence of learned counsel for the petitioners.

[2]. The petitioners have assailed the order dated 27.07.2015 passed by the Addl. Civil Judge (Sr. Divn.) Moga, whereby execution filed by the decree-holders was held to be barred by the limitation.

[3]. Learned counsel for the petitioners submitted that even

before the executing Court, the application was filed on 24.04.2015 that Pavittar Muni Chela Parma Nand has since died and there was no legal heir of the deceased judgment-debtor. The executing Court proceeded with the case *suo motu* and held the execution to be time barred. In the impugned order, itself, factum of death of judgment-debtor was noticed by the executing Court.

[4]. Learned counsel further submitted that against the judgment and decree dated 22.12.1992, an appeal was filed by Pavittar Muni before the lower Appellate Court in which operation of the aforesaid judgment and decree was stayed on 28.01.1993 and the aforesaid stay remained in operation till disposal of the appeal on 26.10.2002. The filing of execution on 18.09.2013 was well within a period of 12 years.

[5]. I have heard learned counsel for the petitioners.

[6]. Since the aforesaid facts were not taken into consideration by the executing Court, I deem it appropriate to set aside the impugned order dated 27.07.2015 and remand the case to the executing Court to decide the issue afresh by taking note of all the attending circumstances as alleged by the petitioners.

[7]. Nothing expressed hereinabove would be taken to be

an expression of opinion on merits of the case. The executing Court would be at liberty to pass a fresh order in accordance with law.

[8]. Petition stands disposed of.

August 22, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No