IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR No.1398 of 2017.
Date of Decision: 27.02.2017.

Ashok Narwal and others ....Petitioners.

VERSUS

State of Haryana and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Gunjan Mehta, Advocate for the petitioners.

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SNEH PRASHAR, J.

Assailing the order dated 07.02.2017 passed by learned Additional Civil Judge (Senior Division), Rohtak, by virtue of which the objections filed by the petitioners to the execution of decree dated 05.08.2015 were dismissed, the instant revision petition has been filed by the petitioners.

From the impugned order it transpires that Civil Suit No.209 of 2013 titled “Om Singh Vs. State of Haryana and others” was decreed vide judgment and decree dated 05.08.2015 in favour of decree holder Om Singh. For execution of the decree, Om Singh filed an execution petition. During pendency of the execution proceedings, Om Singh died and is now represented by his mother Smt. Chhano Devi widow of Richpal. In the execution proceedings, the petitioners filed third party objection petition alleging that Om Singh (decree holder) was their partner in the liquor vends at village Bhaini Bheron, Bhaini Maharaj Pur, Sisar Khas, Seman, Farmana etc. and in Meham Group of liquor vends (L-14A) as well as in the vend (L-13). Although the said vends were allotted in the name of Om Singh, but to maintain the account of the group, a partnership deed was duly executed between them and Om Singh. Om Singh did not mention about the partnership deed in the civil suit filed by him. Having come to know about the judgment and decree when they (petitioners) raised objection, Om Singh filed an affidavit before D.E.T.C., Rohtak for adjustment of the decretal amount in their (petitioners') partnership firm. However, after Om Singh expired, his legal heirs are claiming the decretal amount whereas the decretal amount is property of the partnership firm and not of the decree holder alone. With the above submissions, the petitioners prayed for disbursement of the decretal amount among the partners of the firm as per the partnership deed.

The respondents-legal representatives of decree holder Om Singh resisted the objection petition filed by the petitioners and denied that the petitioners were partners in the liquor vend allotted in the name of Om Singh.

Considering the submissions made on behalf of both the parties, learned trial Court dismissed the objection petition filed by the petitioners vide order dated 07.02.2017 which has been challenged by way of instant revision petition.

The submissions made by Mr. Gunjan Mehta, learned counsel for the petitioners have been considered.

Learned counsel for the petitioners argued that there is a written partnership deed executed between the petitioners and deceased Om

Singh (decree holder) and the partnership firm is actually entitled to the decretal amount. The amount has to be disbursed among the partners as per their shares indicated in the partnership deed and the amount is not to be paid to the legal representatives of deceased decree holder. The reasons recorded by learned Executing Court [Additional Civil Judge (Senior Division), Meham] for rejecting third party objection petition filed by the petitioners are as under:-

> *"In order to effectively adjudicate the objections of the applicants, the main case file of the civil suit no. 209 of 2013 titled as Om Singh Vs. State of Haryana perused carefully. The judgment and decree dated 5.8.2015 was passed in favour of decree holder Om Singh. The perusal of file reveals that in the pleadings of the parties and in the evidence led by the parties, it has nowhere been mentioned that the outlet of village Bhaini Bharon vend was ever allotted to any firm. Even the liquor license Ex. P-12 to Ex. P-14 was granted to the decree holder Om Singh s/o Richpal. The allotment documents in respect of highest bidder Ex. D-3 and Ex. D-4 were also issued in favour of decree holder Om Singh. Neither in the pleadings nor in the evidence, nor in the judgment and decree it has been mentioned that the liquor vend in question were ever allotted to a firm or that the decree holder Om Singh has filed the suit in the capacity of a partner of any firm."*

Learned counsel for the petitioners is unable to deny the facts as recorded by learned Executing Court in the impugned order. Admittedly, the liquor lincence was granted in the name of Om Singh son of Richpal.

The allotment documents showing him as highest bidder were also issued in his name and not in the name of any partnership firm. The civil suit was filed by deceased Om Singh in his individual capacity and not as partner of any firm. In said state of facts, by no stretch of imagination, it can be said that the amount payable under the judgment and decree passed in favour of deceased Om Singh is to be diverted to any partnership firm or the petitioners. In case the petitioners had any legally enforceable right, they could avail the remedy available to them under law.

Thus, there being no illegality or perversity in the order of learned trial Court, the instant petition being devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

27.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**