

CR No.1679 of 2017

Date of decision: March 08, 2017

Jaswant Singh and others

...Petitioners

Versus

Major Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. C.M. Munjal, Advocate
for the petitioners.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Article 227 of Constitution of India, petitioners have sought setting aside the order dated 25th January, 2017 (Annexure P-6) whereby Executing Court has allowed the application of the respondent for recovery of excess amount of Rs.11,680/- and has also ordered for the attachment of 1/3rd share of Khasra No.21/4/12(1-8) situated in Village Manakpur, Tehsil Rajpura, District Patiala and further auctioned the same.

A glance at the impugned order transpires that though, it has been observed by the trial Court that from the perusal of the receipt of the concerned Banks, in which, the decree-holder has deposited the loan amount due towards the judgment debtor, it is clear that decree-holder has actually deposited an excess amount to the tune of Rs.11,680/- yet application, in its entirety, has been allowed i.e. including attachment of 1/3rd share of Khasra No.21/4/12(1-8) which is absolutely against the relief claimed and granted by the trial Court. Thus, the impugned order dated 25th January, 2017 being unsustainable in the eyes of law is *set aside* by way of acceptance of the instant revision petition. Trial Court is directed to decide the aforesaid application afresh after affording an opportunity of hearing to both the parties.

Since this order has been passed in the absence of the respondent, if he feel so aggrieved of this order, he shall be at liberty to approach this Court.

Disposed of.

March 08, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No