

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.2084 of 2016
Date of Decision:28.8.2017**

Gurdev Singh (deceased) through his LR

...Petitioner

Versus

Sukhwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Jasbir Rattan, Advocate for the petitioner.
Mr.Ravish Bansal, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 22.1.2016 passed by the learned executing court, whereby objections raised by the legal representative of original judgment debtor/Gurdev Singh were dismissed, they have approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that Gurdev Singh was the judgment debtor. After his death, his son petitioner-Manjit Singh stepped into his shoes. Suit of the plaintiff was decreed against Gurdev Singh, vide judgment and decree dated 4.7.2013 passed by the learned court of

competent jurisdiction. It is the said civil court decree dated 4.7.2013, which is being sought to be executed by the decree holder. Manjit Singh-legal representative of the original decree holder/Gurdev Singh filed the objections before the learned executing court, seeking stay of the execution as the appeal was pending before the learned first appellate court against the above-said judgment and decree dated 4.7.2013.

However, since the judgment debtor could not produce any copy of stay order granted by the learned first appellate court, his objections were rightly dismissed by the learned executing court, vide impugned order dated 22.1.2016. Having said that, this Court feels no hesitation to conclude that the learned executing court committed no error of law, while passing the impugned order and the same deserves to be upheld.

So far as the judgment of this Court as well as the judgment of Andhra Pradesh High Court, relied upon by the learned counsel for the petitioner in **Yogeshwar Education Trust Vs. Gurmeet Kaur and others, 2009 (2) CivCCC 345 (DB) (P&H)** and **Ch.Venkata Rao and others Vs. J.R.Rameshji and another, 2014 (3) CivCC 152 (AP)**, are concerned, there is no dispute about the observations made therein. However, on close perusal of the cited judgments, none of them has been found to be of any help to the petitioner, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmasundara Rao (Dead) Vs. State of Tamil Nadu**

and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.
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Once the petitioner has stepped into the shoes of original judgment debtor/Late Shri Gurdev Singh and he is also pursuing the first appeal against the judgment and decree dated 4.7.2013, he cannot claim any ignorance in this regard as being sought to be claimed by the learned counsel for the petitioner before this Court. Petitioner cannot be permitted to misuse the process of law proceeding on technicalities alone, while ignoring the merits of the case. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned executing court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order is supported by sound reasons, because of which no fault can be found with it and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the

considered view that the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present civil revision petition stands dismissed, however, with no order as to costs.

28.8.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No