

Civil Revision No.2827 of 2017

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

Sr. No. 117

Civil Revision No.2827 of 2017

Date of decision: May 01, 2017

Haryana Urban Development Authority, Hisar

.... Petitioner

Versus

Sher Singh & others

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Lokesh Sinhal, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner-Haryana Urban Development Authority (HUDA) has sought setting aside of the impugned orders dated February 22, 2017 and March 16, 2017 (Annexure P-2 & P-3) passed by Additional District Judge, Hisar whereby an application moved under Section 39(4) read with Section 151 of Code of Civil Procedure (for short 'Code') by the petitioner for attaching/releasing the Account No.50200009993857 of

HDFC Bank, Sector 17-C, Chandigarh in the name of Chief Administrator, HUDA has been declined and a direction has been issued for permitting the attached amount to the executing court.

2. The contention of learned counsel for the petitioner is that respondent No.1-Decree Holder moved an application order XXI Rule 30 & 37 read with Order XXI Rule 41 & 3 of the Code for attachment of the property of the petitioner/JDs for the recovery of decretal amount on July 26, 2016 and vide order dated February 22, 2017 on furnishing of list of property by the decree holder, the aforesaid account have been attached. But the attachment of the account, which is at Chandigarh i.e. outside the jurisdiction of the executing court is absolutely illegal and against the letter & spirit of the mandatory provisions contained in Section 39(4) of the Code. The said provisions clearly restrict the right of the executing court with regard to the properties situated within its jurisdiction and the decree cannot be executed for its satisfaction with regard to the properties outside its limits.

3. No doubt, Section 39 of the Code does not authorize the court to execute the decree outside its jurisdiction but at the same time, it does not dilute the other provisions giving such power on compliance of certain conditions stipulated in those provisions. Thus, the provisions contained in Order XXI Rule 3 or Order XXI Rule 48 which provide differently, would not be effected by Section 39 (4) of the Code. Such an observation was also made by the Hon'ble Apex Court in case '*Salem Advocate Bar Association, Tamiil Nadu vs. Union of India AIR 2005 SC 3353*'.

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4. Adverting to the facts of the case, the mere fact that the account of one of the judgment debtor i.e. HUDA is at Chandigarh does not mean that it can't be attached for the satisfaction of the decree where an execution is pending at Hissar. This court does not find any illegality or irregularity in the impugned orders.

5. Dismissed.

May 01, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No