

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CR No.351 of 2017 (O&M)

Date of decision: 18.08.2017

Boota Singh

..... Petitioner

Versus

Sham Lal deceased through LRs

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harshit Jain, Advocate
for the petitioner.

Mr. Raj Paul Kansal, Advocate
for respondents No.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

Judgment debtor is in revision petition against the order dated 19.08.2016. Facts in brief are that Sham Lal since deceased represented by his legal heirs filed a suit for recovery against petitioner-Boota Singh. The aforesaid suit was decreed for recovery of amount along with interest on 01.08.2008.

Jagdev Singh had filed an another suit against Sham Lal which was decreed on 11.01.2010. Jagdev Singh filed an application for attaching the decree in favour of Sham Lal. The Court passed the order attaching the decree.

Learned counsel for the petitioner has challenged the aforesaid order on the ground that as per Order 21, Rule 53, Sub-clause 6, the decree could be attached only after giving notice to the judgment debtor.

Learned counsel for the petitioner has further submitted that

the entire decree could not be attached. The attachment could only be made with respect to the amount decreed in favour of Jagdev Singh. He has further submitted that in absence of succession certificate, Jagdev Singh could not get the decree attached.

On the other hand, learned counsel for the decree-holder has supported the order passed by the Executing Court dismissing the petition.

I have heard learned counsel for the parties at length and with their able assistance gone through the paper book.

Order 21, Rule 53, Sub-clause 6 provides that notice of such order is to be given to the judgment debtor. There is no provision for issuance of notice before passing an order of attachment. In the present case, the decree has only been attached. The petitioner filed objections to the aforesaid attachment which have been dismissed. Once the petitioner came to the Court and file their objections which have been heard and decided, irregularity, if any, with regard to the service of notice on the judgment debtor would stand regularized.

Learned counsel for the petitioner has further submitted that the entire decree in favour of Sham Lal could not be attached as the decree could be attached only to the extent of amount of decree in favour of Jagdev Singh. Counsel is not in a position to produce both the decrees. Jagdev Singh would only be entitled to the amount as per decree dated 11.01.2010. In these circumstances, if the petitioners have any grievance, they would be at liberty to bring this fact to the notice of this Court.

Learned counsel for the petitioner submitted that without the succession certificate, Jagdev Singh could not get the decree attached. I have considered the submission. Order 21 does not require that Jagdev

Singh should first get succession certificate and only then he can get the decree attached.

In view of the aforesaid facts, there is no merit in the revision petition.

Revision petition is dismissed.

18.08.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No