

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4046 of 2017
Date of decision: 02.06.2017

Bipan Kumar

... Petitioner

Vs.

Amarjit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. G.S. Brar, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 29.08.2016 (Annexure P-8), whereby warrants of arrest were issued against the petitioner, order dated 01.11.2016 (Annexure P-11) dismissing his application for recalling the abovesaid order dated 29.08.2016 (Annexure P-8) and also the order dated 19.05.2017 (Annexure P-14), judgment-debtor has approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned orders (Annexures P-8, P-11 and P-14).

Heard learned counsel for the petitioner.

Plaintiff/decreed-holder Smt. Amarjit Kaur filed suit for recovery of Rs.68,000/- against the defendant-petitioner. Suit for recovery filed by the respondent-plaintiff came to be decreed by the learned trial Court, vide its judgment and decree dated 03.12.2011. Learned counsel for the petitioner is not

aware, whether the abovesaid judgment and decree dated 03.12.2011 passed by the learned trial Court were challenged by the petitioner by way of first and second appeal, thus, the decree dated 03.12.2011 passed by the learned trial Court has attained finality between the parties.

When the decree-holder filed his execution petition, judgment-debtor/petitioner appeared and suffered a statement before the learned executing Court on 06.08.2016 to the effect that although he was not having sufficient means to pay the decretal amount, yet he would be making an effort to arrange the money on the next date of hearing. On his request, the case was adjourned by the learned executing Court to 29.08.2016. However on 29.08.2016, when the impugned order (Annexure P-8) came to be passed, petitioner did not appear before the learned executing Court for no good reasons. Having said that, this Court feels no hesitation to conclude that the learned executing Court was forced by the petitioner to pass the impugned order dated 29.08.2016 (Annexure P-8) and no fault can be found with the said order, which deserves to be upheld.

Another attempt was made by the petitioner by moving an application dated 28.09.2016 for recalling the abovesaid order dated 29.08.2016 (Annexure P-8). However, said application moved by the petitioner was also dismissed by the learned executing Court by a self-contained and legally justified order dated 01.11.2016 (Annexure P-11). It is also pertinent to note here that the petitioner is challenging the order dated 29.08.2016 (Annexure P-8) for the first time before this Court by way of instant revision petition i.e. after about nine months. No reason is forthcoming as to why the petitioner did not challenge this order at an earlier point of time.

So far as the order dated 19.05.2017 (Annexure P-14) is concerned, it

was for the deposit of subsistence allowance by the decree-holder and judgment-debtor/petitioner was ordered to be summoned through arrest warrants for 22.05.2017. Learned counsel for the petitioner is not aware as to what happened on 22.05.2017. Under these peculiar facts and circumstances of the case noted above, it can be safely concluded that the learned executing Court committed no error of law, while passing the abovesaid impugned orders (Annexures P-8, P-11 and P-14). It is so said because the petitioner has not been declared pauper so far by any Court of competent jurisdiction. Once that is so, petitioner cannot avoid his responsibility and financial liability to pay the decretal amount to the decree-holder.

In fact, conduct of the petitioner is forcing the learned executing Court to pass repeated orders against him, including the impugned orders. Once the petitioner has undertaken before the Court, while suffering his statement on 06.08.2016 that he will arrange the money before the next date of hearing and thereafter, he did not appear on the next date of hearing i.e. 29.08.2016, learned executing Court was left with no other option except to pass the impugned order (Annexure P-8). Neither the petitioner seems to be a bonafide litigant nor he has conducted himself appropriately before the learned executing Court and the impugned orders are the result of his own conduct. It also seems that the petitioner was trying to play smart not only with the decree-holder but with the Court as well. Under these circumstances, this Court is of the considered opinion that impugned orders passed by the learned executing Court do not suffer from any illegality and the same deserve to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned orders, which may

warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

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 present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

02.06.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No