

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

CR No. 4214 of 2017 (O&M)

Date of Decision: 16.12.2017

KOTAK MAHINDRA PRIME LTD

-PETITIONER

VS

M/S VRISHABH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.D.S. Sukhija, Advocate,
for the petitioner.

Mr. Vikas Bali, Advocate,
for respondent No.4.

RAJ MOHAN SINGH, J. (ORAL)

CM No. 18302-CII of 2017

This is an application under Order 1 Rule 10 read with Section 151 CPC filed by applicant Baljinder Singh son of Buta Singh, r/o House No.222, Block No.17, Bharat Nagar, District Ludhiana to be impleaded as party respondent No.4.

Learned counsel for the applicant submits that the car in question was put to auction. He being the highest bidder deposited the total consideration of Rs.4,70,000/- in the Executing Court. On account of stay operation of order dated 08.05.2017, he is suffering day to day losses on account of deprivation of the car in question.

Learned counsel for the petitioner has no objection to the aforesaid impleadment.

In view of controversy involved in the case, applicant Baljinder Singh is ordered to be impleaded as party respondent No.4.

Application stands disposed of.

Main case

[1]. Petitioner has assailed the order dated 08.05.2017 passed by Civil Judge (Junior Division), Ludhiana whereby the hypothecated car was ordered to be auctioned and the sale proceeds were ordered to be divided between the petitioner and respondent No.3-decree holder.

[2]. Vide the impugned order, the trial Court has passed an order on the 3rd party objection filed by the petitioner in the context of auction of the hypothecated vehicle.

[3]. The decree holder suffered a statement that he has no objection to the 3rd party objection filed by the petitioner-Bank and also stated that the property attached be auctioned and the sale proceeds be divided between the petitioner-Bank and the decree holder.

[4]. The due amount in favour of the petitioner-Bank is Rs.4,52,901.32/-.

[5]. Learned counsel for added respondent No.4 has

submitted that the vehicle in question has been auctioned for a total consideration of Rs.4,70,000/-.

[6]. Learned counsel for respondent No.4 also submits that since respondent No.3/deGREE holder has already made a statement on 08.05.2017 before the Executing Court showing no objection to the 3rd party objection filed by the petitioner-Bank and also stated that the car be put to auction and the sale proceeds be divided amongst the petitioner and the decree holder, therefore, I deem it appropriate to dispose of the revision petition at this stage even though respondent No.3 has not come on record.

[7]. Since, the decree holder has acknowledged the right of the secured creditor i.e. the petitioner, therefore, the dues of the Bank can be allowed to be satisfied from the total sale proceeds and the remaining amount can be paid to the decree holder.

[8]. With the aforesaid clarification, this revision petition is disposed of accordingly.

16.12.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No