

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

CR No.4965 of 2017 (O&M)

Date of decision : 24.08.2017

M/s Bakes and Mor

...Petitioner

Versus

Kulwant Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Aggarwal, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Judgment-Debtor is in revision petition against the order dated
18.05.2017. Relevant part of the order reads as under:-

“4. Heard. Record perused. The ground of fact of payment through cheques as alleged by JD and the fact of making advance payment regarding which recital is on the backside of the rent note were taken in objections filed by JD and were already decided and dismissed by the predecessor of this court on 03.12.2015 vide detailed order on the objections. So, there is no point in discussing them again here. The only point which remains in the present application is that the JD averred that when the possession was taken by DH the fixed assets lying therein were not returned and cost of them is approximately Rs.6 lakh and JD prayed that the same is liable to be adjusted. Now, present is only in execution and executing Court cannot go behind the decree passed. Such objections were not even raised by the

JD in their written statement filed by him in the original suit and they only pleaded that compromise had taken place with DHs. These facts were very well within the knowledge of JD at the time of pendency of suit for recovery and JD was contesting the same. Only when the judgment against him is passed he is filing one application after another to delay the execution. His earlier two objections on the same grounds were already dismissed by the Court and now JD is putting on condition that after deduction of amount detailed by him in the application he will pay the balance if any. It is not to be decided by JD that what he is liable to pay, Court has already passed a decree against him which is pending for execution in this Court since 09.02.2015 and earlier two objections were already dismissed vide detail orders which were filed on the same grounds. Now, to delay the matter further this application is filed. No executing Court can go beyond the decree. Thus, in view of the above said discussion, the present application stands dismissed being devoid of any merits. Warrant of attachment of property of JD be issued for 24.07.2017.”

Learned counsel for the petitioner has submitted that earlier he had filed revision petition which was disposed of vide order dated 10.02.2016. The order reads as under:-

“Learned counsel for the petitioner submits that he be allowed to withdraw the present petition with liberty to move appropriate application before the executing Court to make the balance payment whichever is due.

Dismissed as withdrawn.”

He submits that pursuant to the liberty granted, the petitioner moved an application. However, the Court has not agreed to adjust the amount paid by the Judgment Debtor.

I have considered the submission of learned counsel for the petitioner.

Judgment Debtor had filed objections to the same effect which were dismissed by the Court on 03.12.2015 vide detailed order. The Judgment Debtor filed a revision petition which was dismissed as withdrawn. It is in these circumstances, the Executing Court has held that the revision petition was dismissed as withdrawn and detailed order dated 03.12.2015 was already passed while deciding earlier objection petition, therefore, the Executing Court has correctly reached at a conclusion that the Judgment Debtor is trying to delay the execution by filing one application or the other. The Court has further noticed that the earlier two objection petitions have already been dismissed by the Executing Court.

In view of the detailed order passed by the Court, reproduced above, I do not find any reason to interfere with the impugned order.

Revision petition is dismissed.

All miscellaneous pending applications are disposed of, in view of the abovesaid order.

24.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No