

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR No.7697 of 2015 (O&M)

Date of decision: 12.05.2017

Shri Niwas

... Petitioner

Vs.

Sajjan Singh and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. Vivek Khatri, Advocate  
for the petitioner.

Mr. Mohit Garg, Advocate  
for respondent No.1.

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**RAMESHWAR SINGH MALIK, J. (ORAL)**

Feeling aggrieved against the order dated 05.11.2015 passed by the learned executing Court, issuing conditional warrants of arrest, petitioner has approached this Court by way of instant revision petition filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued and interim stay was granted.

Heard learned counsel for the parties.

At the very outset, learned counsel for respondent No.1 submits that whatever land was claimed to be owned by the petitioner is, as a matter of fact, under mortgage with the bank, thus, the same cannot be sold. However, this fact has been strongly controverted by learned counsel for the petitioner, contending that had the contention raised by learned counsel for respondent No.1 been true, the learned executing Court would have recorded said fact in the impugned order itself.

Be that as it may, a bare perusal of the impugned order itself would show that the learned executing Court has seriously contradicted itself, while recording that revenue record shows that the property is in the name of Shree Niwas son of Hukam Chand. In the very sentence, the learned executing Court observed that judgment debtor himself is not having any property in his name. There is a serious dispute between the parties, as to whether the petitioner was having any property in his name free from all encumbrances, which would be sufficient to satisfy the decree for payment of an amount of Rs.4.00 lacs.

In view of the above, impugned order dated 05.11.2015 passed by the learned executing Court has been found patently illegal and the same is hereby set aside. The learned executing Court is directed to grant another opportunity to the petitioner to place on record his documents of title qua the property/land, which is free from all encumbrances and would be sufficient to satisfy the decree for payment of Rs.4.00 lacs. Thereafter, the learned executing Court shall proceed further, by passing an appropriate order, with a view to ensure that execution application moved by the decree-holder is decided expeditiously, in accordance with law.

With the abovesaid observations made and directions issued, present revision petition stands disposed of.

**[ RAMESHWAR SINGH MALIK ]**  
**JUDGE**

12.05.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No