

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

CR No. 7317 of 2017

Date of Decision: 26.10.2017

M/S CHAMAN LAL KAMLESH KUMAR AND ANR

-PETITIONERS

VS

TEHAL SINGH

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.S. Dhindsa, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J. (ORAL)

Application under Order 38 Rule 5 CPC filed by the plaintiff-petitioners in a suit for recovery arising out of bahi entries has been declined by the trial Court on the ground that the provision is drastic in nature and the same is to be exercised very sparingly with utmost care and caution. Reputation of the judgment debtor may be ruined by invoking such a procedure without proper caution.

No name of the intended purchaser has come forth. Only an apprehension has been shown and that too, without any source of information with the petitioners.

The purpose of Order 38 Rule 5 CPC is not to bring an unsecured debt under the category of secured debt. Such an intended effort to seek leverage of this kind has to be

discouraged. The provision can be resorted to on defined legal principles so as to secure ends of justice.

I do not see any justification to interfere in the impugned order on merits and this revision petition is, accordingly, dismissed. However, liberty is granted to the petitioners to avail remedy in terms of Order 39 Rules 1 and 2 CPC in accordance with law.

26.10.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No