

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

CR-762-2014 (O&M)
Date of decision: 15.11.2017

BALDEV SINGH

...Petitioner

Versus

BANT SINGH AND ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Varun Jain, Advocate for
Mr. Arihant Jain, Advocate
for the petitioner.

Mr. Munish Gupta, Advocate
for respondent No.1.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 17.05.2010 (Annexure P3) passed by the Civil Judge, (Jr. Div.) and orders dated 07.09.2013 (Annexure P5) and 07.10.2013 (Annexure P6) passed by the Additional Civil Judge (Sr. Div.), Malerkotla whereby objections under Section 47 read with Section 151 CPC for recalling of order dated 17.05.2010 has been dismissed vide order dated 07.09.2013 (Annexure P5) and order dated 07.09.2013 was modified vide order dated 07.10.2013 (Annexure P6).

The sole submission made by counsel for the petitioner is that the Court below dismissed the objections filed by the petitioner, successors-in-interest of Chand Singh (JD) by passing a cryptic and unreasoned order,

therefore, the orders impugned may be set aside and the matter be remitted to the Court below for decision of the objections afresh.

Counsel for respondent No.1/decreed holder would state that as the application for execution stands fully satisfied vide order dated 17.05.2010, no such objections preferred by the petitioner are maintainable under any provision of the Code of Civil Procedure (in short 'CPC').

I have heard counsel for the parties, perused the paper book particularly orders dated 07.09.2013 and 07.10.2013.

Perusal of the order dated 07.09.2013 would reveal that the Court below has not at all adverted to the averments set up in the objections petition preferred by the petitioner nor to the question of maintainability of objections but passed a cryptic order by assigning reasons which do not appear to be relevant for deciding the controversy raised by the petitioner. Rather it appears that the Court has recorded the order of some other case in the present case and for that reason, in the concluding line of the order there was reference to filing of application under Order 21 Rule 66 CPC though the said fact has been later corrected by another officer vide order dated 07.10.2013. I find merit in contention of the petitioner that the impugned order (Annexure P5) has been passed without adopting any process of reasoning much less assigning any reason, thus, cannot be allowed to sustain and liable to be set aside. Resultantly, order dated 07.10.2013 would automatically be set aside.

For the foregoing reasons, the petition is allowed. The

impugned orders (Annexures P5 and P6) are set aside and the Court below is directed to decide the objection petition afresh after hearing the parties, in accordance with law.

Nothing stated hereinbefore shall be construed as an expression of opinion either with regard to maintainability of the objections or qua its merits. The parties through their counsel are directed to appear before the Court below on 11.12.2017. The Court is directed to dispose of the objection petition within a period of two months from the date, the parties put in appearance.

15.11.2017

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No