

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

CR No.2301 of 2016 (O&M)
Date of decision : 20.03.2018

Charanjit Singh and others

...Petitioners

Versus

M/s Chandigarh Mobiles Private Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.L. Kohli, Advocate for the petitioners.

Mr. Arun Dogra, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Although, it is unfortunate that the Decree Holder has not been able to get the payment, although the money decree for recovery of the amount has become final, however, in the present case, the decree was passed against a limited company, which has become defunct and does not own any property. The Judgment Debtor now wants that individual property of the erstwhile Director should be attached.

Learned Executing Court had framed an issue and permitted the Decree Holder to lead the evidence.

On appreciation of the evidence, the Court has found that the property which was got attached does not belongs to the Judgment Debtor, the company. The Decree Holder failed to provide the list of any other property belonging to the Judgment Debtor.

Learned counsel for the petitioners has vehemently argued that since the same Director had got incorporated a new company on the same address, therefore, the fraud should be assumed on the part of the Director.

This Court has considered the argument, however, expresses his inability to accept such a sweeping argument. It is for the Decree Holder to prove that either the funds or the property of the Judgment Debtor company has been transferred to the newly incorporated company. In absence thereof, the Judgment Debtor being legal entity having a limited liability, the Director of the Limited company cannot be held personally liable in absence of any such condition either in the Memorandum of Association or in the Articles of Association.

In view of the above, the present revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

20.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No