IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. Civil Revision No.5758 of 2018 (O&M)
Date of Decision:28.11.2018

Shaiwal Gupta (deceased) through his LR Pawan Gupta
......Petitioner
Vs
Prerna Kaur and another
....Respondents

2. Civil Revision No.5836 of 2018

Shaiwal Gupta (deceased) through his LR Pawan Gupta
......Petitioner
Vs
Prerna Kaur and another
....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Sandeep S. Majithia, Advocate
for the petitioner.

Respondent No.1 in-person.

Mr. G.S. Madaan, Advocate
for respondent No.2.

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RAJ MOHAN SINGH, J.

[1]. Vide this common order CR Nos.5758 and 5836 of 2018 (O&M) are being decided. As similar issues are involved in both the petitions, therefore, for brevity facts are being taken from CR No.5758 of 2018.

[2]. Petitioner has preferred this revision petition against the

order dated 15.05.2018 passed by the Addl. District Judge, Ludhiana and order dated 23.08.2018 passed by the same Court issuing directions to the Bank not to release the amount of Rs.6,55,000/- till further orders and dismissed the objections filed by Smt. Pawan Gupta, legal representative of Shaiwal Gupta and directed the HDFC Bank, Ludhiana to remit the amount of Rs.6,55,000/- lying in the account of Shaiwal Gupta in the name of respondent No.1 Prerna Kaur, who was married with the deceased son of the petitioner i.e. Shaiwal Gupta on 24.04.2006 according to Sikh rites and ceremonies. No issue was born out of the wedlock. The marriage between Shaiwal Gupta and Prerna Kaur went into rough weather. It has come on record that Shaiwal Gupta performed second marriage with Mehak Arora/respondent No.2 during currency of his marriage with Prerna Kaur.

[3]. In the petition under Section 24 of the Hindu Marriage Act (for short 'the Act'), maintenance was awarded to Prerna Kaur/respondent No.1 to the tune of Rs.20,000/- per month. The maintenance was awarded from the date of petition under Section 24 of the Act till disposal of petition under Section 13 of the Act. An amount of Rs.15000/- was also awarded towards litigation expenses vide order dated 21.02.2017 passed by the Addl. District Judge, Ludhiana.

[4]. In the recovery of arrears of maintenance awarded in favour of respondent No.1, an execution was filed before the Addl. District Judge, Ludhiana on 03.05.2017 for recovery of an amount of Rs.6,55,000/- from 03.09.2014 to 02.05.2017 besides litigation expenses as granted by the Addl. District Judge, Ludhiana. The said amount was sought to be recovered by way of attachment and sale of property and by detaining the judgment-debtor in civil prison for recovery of the said amount.

[5]. Shailwal Gupta died on 04.05.2018 during pendency of the aforesaid execution. After the death of Shaiwal Gupta, an application was filed by respondent No.1 for issuance of warrant of attachment qua the amount lying in the bank in the name of Shaiwal Gupta and for payment of the same to the decree holder as there was apprehension in the mind of the decree-holder that the amount may be withdrawn to frustrate her right. Since Shaiwal Gupta had already been proceeded against *ex parte* in the execution, when he was alive, therefore, there was every apprehension in the mind of decree-holder that the bank deposits may be withdrawn by the family members of Shaiwal Gupta. The executing Court deemed it expedient to issue directions to the Bank not to release the amount of Rs.6,55,000/- for which the execution was filed till further orders. Necessary intimation was issued to the Bank vide order dated

15.05.2018.

[6]. After the death of Shaiwal Gupta, his mother has been impleaded as legal representative. Notice of the execution was issued to her. Thereafter the legal representative filed objections in the execution to the effect that she was also class-I legal heir of Shaiwal Gupta. The objector raised the objections to the effect that a car was purchased by the objector along with Shaiwal Gupta. Loan was availed in the name of objector, but the same was transferred to the account of Shaiwal Gupta. Thereafter, Shaiwal Gupta used to pay installments towards loan of the car. The first charge on the deposits lying in the name of Shaiwal Gupta is that of Bank for which the amount cannot be attached at the instance of Prerna Kaur.

[7]. Learned counsel for the petitioner vehemently submitted that as per loan account statement in the ICICI Bank, Shaiwal Gupta was shown to be co-applicant in the loan record. The loan was availed for the purposes of financing the vehicle.

[8]. Learned counsel further submitted that the amount of loan availed by the petitioner was ultimately transferred to the account of Shaiwal Gupta and thereafter Shaiwal Gupta started paying installments of the vehicle in question. With the death of Shaiwal Gupta, the account of Shaiwal Gupta stood freezed and

installments were not paid. The vehicle was repossessed by the Bank.

[9]. As against this, respondent No.1 in-person, duly supported by learned counsel for respondent No.2 submitted that as per the information available to respondent No.2, the loan amount has already been paid by the petitioner. There were many cars with the petitioner and all the cars have been sold by her.

[10]. I have considered the submissions made by learned counsel for the parties.

[11]. Registration Certificate of the vehicle is admittedly in the name of the petitioner and the same was not in the name of Shaiwal Gupta. Petitioner was shown to be registered owner of the vehicle. It is a settled principle of law that liability in respect of vehicle arises from registered owner in view of ***Naveen Kumar vs. Vijay Kumar, 2018(2) R.C.R. (Civil) 74.***

[12]. Respondent No.1 is the first wife of Shaiwal Gupta and during pendency of proceedings under Section 13 of the Act, Shaiwal Gupta died. Respondent No.2 is the second wife of Shaiwal Gupta and both are living in the same house, but in different rooms. They have raised some incriminating allegations against the conduct of the petitioner in the context of

maltreatment which is being meted out to them.

[13]. *Inter se* allegations are not relevant for the decision of this revision petition. The fact remains that the petitioner is the registered owner of the vehicle. Even if, the loan has not been paid off, it is the liability of the registered owner to answer the claim arising out of vehicle in question. Admittedly, the loan was granted in the name of petitioner. The capacity of Shaiwal Gupta being that of co-applicant as guarantor has not come forth on record by way of any admissible evidence. The loan documents of the Bank also proved that the petitioner was loanee. Transfer of any amount from the account of the petitioner to the account of Shaiwal Gupta cannot be held to be a transfer of liability towards payment of loan or co-extensive liability for payment of loan in favour of the petitioner and Shaiwal Gupta as a joint venture. Registered owner has to answer the claim in respect of the vehicle. Admittedly, the loan was sanctioned in favour of the petitioner.

[14]. The arrears of maintenance are recoverable from the account of Shaiwal Gupta. The amount lying in the account of Shaiwal Gupta cannot be credited to answer any other claim for which he was not proved to be either loanee or guarantor of the loan amount.

[15]. For the reasons mentioned hereinabove, I deem it appropriate not to interfere in the impugned orders passed by the executing Court. Both the revision petitions are found to be totally devoid of merits and the same are accordingly dismissed.

November 28, 2018 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No