

entitled to claim from the defendants in the suit a total amount of Rs.55,11,927/- along with interest @ 6% per annum from the date of judgment and decree till its realization.

The aforesaid judgment and decree was challenged by the petitioner as also M/s Navkiran Cold Storage Pvt. Ltd. by way of an appeal which was dismissed on 12.02.2014 by the Additional District Judge, Jalandhar. A Regular Second Appeal being **RSA No.6221 of 2014**, filed by the petitioner as also M/s Navkiran Cold Storage Pvt. Ltd. before this Court, was also dismissed by this Court on 22.12.2014. Since no further challenge was made before the Hon'ble Apex Court, the proceedings attained finality.

In the execution proceedings initiated by respondent no. 1, the residential house of the petitioner was ordered to be attached to be sold so that from the sale proceeds thereof, the aforesaid decree could be satisfied. On the attachment of his property, the petitioner filed objections before the Executing Court on the ground that the property attached was the only residential house of the petitioner, and therefore, by virtue of provisions of Section 60(1)(ccc) CPC, the same could not have been attached.

The petitioner's objections were partly allowed to the extent that the portion of the property, which was under his occupation and was being used by him as his residence, was ordered to be released from attachment. However, the attachment orders qua the portion of the property of the petitioner which had been let out by him and was being used by his tenant for commercial purposes were sustained. The portion of the order of the Executing Court, wherein the attachment orders of part of the

petitioner's property were sustained, is the subject matter of challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

It is not disputed that the part of the property of the petitioner, which still continues to be attached under orders of the Executing Court, to be auctioned to satisfy the decree against the petitioner, has been let out by him and his tenant is using the same for commercial purposes.

In the light of the above admitted facts, is the petitioner entitled to the protection of Section 60(1)(ccc) CPC qua the portion of his residential house let out by him and which is being used by his tenant for commercial purposes ?

In **Ude Bhan and others vs. Kapoor Chand and others – AIR 1967 (Punjab) 53**, the following questions came up for consideration before a Full Bench of this Court :-

“(1) If out of the main residential house belonging to a non-agriculturist judgment-debtor a portion of it is let by him to tenant (s), is the whole house deemed to be in his occupation within the meaning of [Section 60\(1\)\(ccc\)](#) of the Code of Civil procedure?

(2) If any building attached to the main residential house belonging to and occupied by non-agriculturist judgment-debtor is let out to a tenant, will that portion be considered to be in his occupation within the meaning of the above provision?

(3) Does it make any difference if the

letting is not voluntary, but the result of the order of a competent authority, e.g. of a requisitioning or the rehabilitation authority?”

Question no. 1 was answered as under :-

“With due respect to the learned Judges, who held the contrary view, I am, for the reasons given above, clearly of the view that when the judgment-debtor has himself let out a portion of the house he cannot under Clause (ccc) be deemed to be in occupation thereof, even if the remaining part of it is occupied by him and hence I would answer the first question under reference in the negative.”

Thus, the Full Bench in **Ude Bhan's** case (*supra*), has clearly opined that a non-agriculturist judgment-debtor is not entitled to the protection of Section 60(ccc) CPC qua the portion of his main residential house which has been let out by him.

In view of the above admitted facts as also the law laid down by the Full Bench in **Ude Bhan's** case (*supra*), I have no hesitation in concluding that there is no merit in the present petition.

Dismissed.

(DEEPAK SIBAL)
JUDGE

November 21, 2018
monika

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>