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

CR No. 7879 of 2018

Date of Decision: 20.11.2018

Kaka Singh

-Petitioner

Vs

M/s HDB Financial Service Ltd. and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rohit Joshi, Advocate, for
Mr. Anant Bir Singh Sidhu, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Perusal of the impugned order would show that on the objections filed by Veerpal Kaur and Paramjit Kaur, legal heirs of judgment debtor no.1, learned counsel for the decree holder made a statement that the decree holder will not proceed against personal and individual properties of legal heirs of Jagga Singh. Even decree holder did not obtain details of personal properties of Jagga Singh.

In view of statement made by learned counsel for decree holder, objections filed by legal heirs of Jagga Singh were withdrawn by them. Thereafter, decree holder proceeded to recover the decretal amount from the properties of guarantor i.e. the petitioner.

Issuance of warrant of attachment of the truck in question is an effort to recover the decretal amount from the guarantor by lawful means. Liability of the guarantor along with judgment debtor was co-extensive. Decree holder can recover the same from guarantor as well.

Perusal of the record would also show that respondent No.1 filed an arbitration case No.4047 of 2015 before the Arbitral Tribunal/Sole Arbitrator in respect of loan agreement dated 31.12.2014. The loan was availed by respondent No.2 and the petitioner stood as guarantor in the said loan transaction. The loan was availed to the tune of Rs.9 lacs for purchase of commercial vehicle. On account of failure on the part of the borrower to repay the loan, arbitral proceedings were initiated in which petitioner and respondents No.2 and 3 were proceeded against exparte.

The award was passed on 12.02.2016 in a sum of Rs.6,96,810/- along with interest @ 18% from 06.01.2018 till final realization of the amount with costs throughout. In the execution of the award, vehicle in question has already been taken in possession and the remaining amount can be recovered in the manner as suggested in the order itself.

There is no error of jurisdiction in the order passed by Additional District Judge-I, Barnala.

This revision petition is found to be totally devoid of merits and the same is accordingly, dismissed.

20.11.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |