

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 11644 of 2018 (O&M)
Date of decision: 19.12.2018

Jang Singh

.. Petitioner

v.

M/s Nabha Traders

.. Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Amandeep Singh Jawandha, Advocate for the petitioner.

...

AVNEESH JHINGAN, J. (Oral)

The present revision petition has been filed being aggrieved of the order dated 31.10.2018, passed by Civil Judge (Junior Division), Nabha dismissing the application of the petitioner- judgment debtor (for short, 'the petitioner') filed under Order XXI Rules 85 and 90 of the Code of Civil Procedure, 1908 (for short, 'CPC').

The facts in brief are that the respondent- decree holder (for short, 'the respondent') had a judgment and decree dated 19.11.2009 in his favour. The petitioner filed an appeal against the said judgment and decree, which was dismissed on 1.10.2010. Thereafter, execution petition was filed on 8.5.2013 by the respondent. Warrant of attachment of the property of the petitioner was issued on 30.7.2014. The same was executed. The suit property was put to sale on 26.2.2015 and thereafter, again on 31.3.2015. The petitioner approached this Court by filing Civil Revision No. 2037 of 2015. The same was disposed of with the direction that only that much portion of the attached property be put to auction, which is sufficient to satisfy the decree in question.

The Executing Court, vide order dated 9.9.2015, directed the petitioner to identify a specific portion of the property in terms of the order passed by this Court. The judgment debtor failed to do so. The property was put to sale and was sold on 9.5.2016. The respondent filed objections under Order XXI Rule 90 CPC on 14.7.2016, demanding setting aside of sale proceedings dated 9.5.2016. After hearing objections to the application, sale proceedings were set aside vide order dated 11.8.2017. Thereafter, sale was finally conducted on 30.8.2018. The petitioner again filed objections under Order XXI Rules 85 and 90 CPC for setting aside the sale proceedings. The said application was dismissed. Hence, the present revision petition.

The only issue raised by learned counsel for the petitioner is that the amount recoverable was ₹ 2,11,366/- and the property has been sold for ₹ 2,34,375/-, his grievance is that the balance amount should be reemitted to the petitioner.

After hearing learned counsel for the petitioner, the present petition is disposed of with the direction that in case there is an excessive amount, as alleged by the petitioner, he would be at liberty to make an application for refund of the same and the same shall be decided by the court below in accordance with law.

(AVNEESH JHINGAN)
JUDGE

19.12.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No