

107

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.353 of 2019

Date of Decision: 19.03.2019

Satnam Singh

..... Petitioner

Versus

Sarbjit Kaur and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sandeep Bansal, Advocate,
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

The present petition is directed against the orders dated 14.05.2018 (Annexure P-4) and 03.11.2018 (Annexure P-6), passed by the Ld. Additional Civil Judge (Senior Division), Hoshiarpur, in Execution Petition No.265 of 2014.

2. The petitioner/judgment debtor happens to be the erstwhile husband of respondent No.1/decree holder, who is alleged to have since re-married.

3. The decree was for realisation of the arrears of maintenance, and for this purpose, the Ld. Court below had directed issuance of the warrant of sale of the petitioner's residential house. His application for recalling the relevant order was rejected vide impugned order dated 03.11.2018.

4. The petitioner's grievance is that the house in question is his

only shelter for residence, and so the Ld. Court below ought not have directed its sale, without first putting the rest of his landed property to sale. The Ld. Court below, however, rejected the submission of the petitioner by relying upon a decision of this Court in the case of “Sher Singh Vs. State Bank of Patiala and others”, 2003(1) RCR Civil 347, wherein it was held that there is no bar under Section 60(1) of the CPC, where a specific charge with regard to recoverable amount is created on his residential house. It is further observed by the Ld. Court below that in any case, a similar prayer of the petitioner had already been dismissed earlier on 03.09.2016 (as noted in Para No.10 of the impugned order). The petitioner did not attach any copy of the earlier order referred to by the Ld. Court below, but on query of the Court, Ld. Counsel for the petitioner tendered a copy of the same for perusal, which went on to reveal that rest of the landed property of the petitioner had already been attached in the course of some other execution proceedings. There is neither any material on record nor even an indication anywhere if such property was ever released from attachment in the separate execution case at any subsequent stage.

5. This Court is, therefore, in agreement with the observations of the Ld. Court below that the petitioner's application for recalling the order of warrant of sale of his residential house in the given facts and circumstances was without merits, and was, therefore, correctly dismissed.

6. Consequently, the present revisional petition is also dismissed as being without any substantive merits.

19.03.2019

Apurva

(SUDIP AHLUWALIA)
JUDGE

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