

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

**Civil Revision No.2150 of 2015 (O&M)**  
**Date of Decision: January 16, 2019**

**Ranjit Kaur & another**

...Petitioners

Versus

**Kuldip Singh**

...Respondent

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr. Rakesh Gupta, Advocate,  
for the petitioners.

Mr. Arun Abrol, Advocate,  
for the respondent.

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**AMIT RAWAL, J. (Oral)**

The petitioners are none else but judgment debtors, who suffered a money decree dated 03.09.2009 in a suit for recovery filed by the respondent-decree-holder.

On 09.10.2009 an execution application was filed. Vide Annexure P-5, petitioner-JDs filed objection petition on 24.04.2010 to the execution on the premise that the entire amount has already been paid, which was opposed by the respondent vide reply Annexure P-6. The trial Court, vide order dated 22.10.2014 (Annexure P-2), rejected the objections and review application Annexure P-7, vide order dated 09.02.2015 (Annexure P-1), was also dismissed

The prayer in the present petition is for setting-aside the aforementioned orders and as well as allowing the petitioners to lead

evidence in support of the review petition and objection petition as per Order 21 Rule 58 CPC.

Mr. Rakesh Gupta, learned counsel appearing on behalf of the petitioner-J.Ds. submitted that Amarjit Singh, the nephew of the petitioners-J.Ds, on 14.10.2009 had withdrawn the amount of ₹ 9,00,000/- from the account and had paid the same to Kuldeep Singh decree-holder on 23.10.2009, who, in pursuance of the receipt of the amount submitted an application Annexure P-4 (vernacular copy) along with Misc.Application Ex.JDW/2 as due to inadvertence some other document as Annexure P-4 (typed copy) was referred to. The contents of the application revealed that he had received the money and wanted to withdraw the execution application. Since there was a dispute, the parties were given chance to lead evidence. The tenor and mode of the cross-examination of the nephew, namely, Amarjit Singh revealed that the money had been withdrawn and paid to the decree holder. The petitioners examined Daljit Singh Chadha Advocate, who moved an application and stated that the application was signed by Kuldeep Singh. Even Kuldeep Singh, in cross-examination, intentionally denied that no compromise had taken place between him and Ranjit Kaur. Along with review application, certain instances were also brought to the notice, whereby Kuldeep Singh had been indulging into such tactics, but the Court did not take the cognizance, therefore, there is illegality and the order is without jurisdiction.

Mr. Arun Abrol, learned counsel representing the respondent-decree holder submitted that the contents of the application Annexure P-4 (vernacular copy), Ex.JDW/2, would reveal receipt of the amount. No sane person after having suffered a decree would pay the amount without receipt.

Even there was no compliance of the provisions of Order 21 Rule 1(b) CPC relied upon by Mr. Rakesh Gupta during the course of the arguments. Amarjit Singh, nephew, did not say that he had paid the money. The lawyer also said that the amount was not paid in his presence. All these factors weighed in the mind of the court in dismissing the review petition. Even the application was bereft of any reasoning, though the intention was to delay the implementation of the judgment and decree and, thus, prayed for dismissal of the revision with exemplary costs.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Gupta.

It would be apt to reproduce the provisions of Order 21 Rule 1 CPC. The same read thus:-

*[1. Modes of paying money under decree (1) All money, payable under a decree shall be paid as follows, namely-*

*(a) by deposit into the Court whose duty it is to execute the decree, or to that Court by postal money order or through a bank; or*

*(b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidence in writing ; or*

*(c) otherwise, as the Court which made the decree, directs.*

*(2) Where any payment is made under clause (a) or clause (c) of the sub-rule (1), the judgement-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgment due.*

*(3) Where money is paid by postal money order or through a bank under clause (a) or clause (b) of sub-rule (1), the money order or payment through bank, as the case may be, shall accurately state the following particulars, namely:-*

*(a) the number of the original suit;*

*(b) the names of the parties or where there are more than two plaintiffs or more than two defendants, as the case may be, the names of the first two plaintiffs and the first two defendants;*

*(c) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs;*

*(d) the number of the execution case of the Court, where such case is pending; and*

*(e) the name and address of the payer.*

*(4) On any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).*

*(5) On any amount paid under clause (b) of sub-rule (1), interest, ;If any, shall cease to run from the date of such payment:*

*Provided that, where the decree-holder refuses to accept the postal money order or payment through a bank, interest shall cease to run from. the date on which the money was tendered to him, or where he avoids acceptance of the postal money order or payment through bank, interest shall cease to run from the date on which the money would have been tendered to him in the ordinary course of business of the postal authorities or the bank, as the case may be.] ”*

No doubt, the parties can arrive at a settlement outside the Court even if they had suffered the decree, but the fact that the payment had been made has not been proved. No sane person would pay the amount without any receipt. It would be apt to reproduce the contents of application Annexure P-4 (Ex.JDW/2) and as well as the relevant line of the cross-examination of the nephew, i.e., Amarjit Singh. The same read thus:-

“Contents of application:-

*In the Court of Sh.Hardeep Singh Grewal, PCS, Addl.Civil Judge, Patiala.*

*Kuldip Singh        Versus        Ranjit Kaur etc.*

*In the matter of execution.*

*Application for summoning the file.*

*Sir,*

*It is submitted that in aforesaid execution the date fixed is 30.10.2009.*

2. *That in the aforesaid execution, the decree holder had compromised with the respondents and as such he does not want to proceed with the present execution and the decree holder had recovered the entire amount with regard to aforesaid decree.*

*Thus, it is prayed that the aforesaid file may be summoned and in aforesaid execution, the statement of the decree holder may be recorded.*

*Submitted by:*

*Sd/-Kuldip Singh son of Pritam Singh  
resident of Bakshiwala*

*Through counsel*

*Daljit Singh Chadha, Advocate,  
Patiala.*

**Cross-examination**

*It is correct that in the application it was mentioned that Kuldeep Singh DH will withdraw the execution and suffer the statement in the court in this regard after receiving the balance amount of Rs.9.5 lac from JD.”*

The aforementioned application does not reveal that decree holder had received the entire amount from the judgment debtors. The cross-examination of Daljit Singh Chadha read out in the court discloses that no payment was made in his presence. He never stated in the examination-in-chief that the money was received by the petitioners. Receipt of the money by the judgment debtors or nephew in favour of the decree holder is a figment of imagination.

For the reasons mentioned above, the impugned order cannot be said to be suffering from any illegality. No ground for interference is made out. Resultantly, the revision petition is dismissed.

**January 16, 2019**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

|                                  |               |
|----------------------------------|---------------|
| <b>Whether speaking/reasoned</b> | <b>Yes/No</b> |
| <b>Whether Reportable:</b>       | <b>Yes/No</b> |