

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

CR No.2345 of 2017

Date of Decision: November 06, 2019

Talwinder Singh

.....Petitioner(s)

versus

Manjit Singh deceased through LRs

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SANJAY KUMAR

Present: Mr. Anil Kumar Garg, Advocate for the petitioner.

Mr. Ajay Singla, Advocate for the respondents.

SANJAY KUMAR, J. (Oral)

The petitioner is the decree-holder in Suit No.17 of 20.01.2001 on the file of the learned Civil Judge (Junior Division), Malerkotla, District Sangrur. The said suit was decreed on 06.06.2003 and the petitioner filed Execution Application bearing No.12 of 09.04.2012. By order dated 17.12.2016, the Executing Court of the learned Civil Judge (Junior Division), Malerkotla, dismissed the execution petition. Aggrieved thereby, the decree-holder is before this Court by way of this revision filed under Article 227 of the Constitution of India.

2. Heard Mr. A.K, Garg, Advocate for the petitioner, and Mr. Ajay Singla, Advocate for the respondents.

3. Perusal of the order under revision reflects that the Executing Court proceeded on the premise that the petitioner/decreed-holder merely denied his signature in the Receipt dated 20.03.2005 (JD-1) produced by the respondent/judgment debtor but he failed to examine a handwriting expert to prove his stand.

4. Learned counsel for the petitioner contended that this premise on the basis of which the Executing Court proceeded was factually incorrect. Thereupon, the matter was adjourned to enable him to file an application along with supporting documents to prove to the contrary. CM No.10203-CII of 2017 was then filed by the petitioner/decreed-holder seeking to place on record a certified copy of the statement of Navdeep Gupta, handwriting/fingerprint expert, who was examined as DHW-1 in the course of the execution proceedings. This application was ordered on 09.05.2017 and the statement was taken on record as Annexure P-7.

5. Mr. Ajay Singla, learned counsel, does not dispute the fact that the petitioner/decreed-holder examined the aforesaid handwriting expert during the course of the execution proceedings.

6. That being so, it is clear that the Executing Court failed to apply its mind to the record before it and completely ignored the fact that the petitioner/decreed-holder had examined a handwriting expert in support of his stand that the Receipt dated 20.03.2005 was not executed by him. Without noting this aspect of the matter, the Executing Court dismissed the Execution Petition on that sole ground. This Court is therefore constrained to set aside the

order under revision and remit the matter to the Executing Court for consideration afresh. The Executing Court shall apply its mind to the entire record of the execution proceedings and dispose of the matter on merits expeditiously and in any event, not later than three months.

7. The parties shall appear before the Executing court on 25.11.2019.
8. The Civil Revision is accordingly allowed.
9. No order as to costs.

November 06, 2019
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[SANJAY KUMAR]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes/No