

In the High Court of Punjab and Haryana at Chandigarh

C.R. No. 6065 of 2016 (O&M)
Date of Decision: February 27, 2019

Raj Bala

... Petitioner

Versus

Bank of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.P. Bhandari, Advocate,
for the petitioner.

Mr. K.P.S. Dhillon, Advocate,
for respondent No.1.

Amit Rawal, J. (Oral)

Present revision petition is directed against the impugned order dated 17.08.2016 whereby application of the petitioner for recalling of order dated 09.11.2010 whereby petitioner – judgment debtor No.3 was proceeded *ex parte*, has been dismissed.

Mr. A.P. Bhandari, learned counsel appearing on behalf of the petitioner, submitted that respondent no.1 – Bank had filed an execution application in pursuance to the judgment and decree. The decree was jointly and severally against all the defendants including the petitioner. In the execution application, petitioner/judgment debtor/defendant no.3 was served and proceeded *ex parte* on 09.11.2010. In fact, counsel for the petitioner was also appearing for judgment debtor No.2 but did not know about the factum of appearance and on realizing, application was filed on 16.03.2016. The Court below has dismissed the application.

Per contra, Mr. K.P.S. Dhillon, learned counsel appearing on behalf of Bank, submitted that application was wholly belated. No reasons have been explained in not approaching the Court. The application was bereft of expressing “good cause” and “sufficient cause” and referred to Order 9 Rule 7 CPC and prayed for dismissal of the revision petition.

I have heard learned counsel for the parties and perused the paper-book.

Apparently, to some extent, the approach of the petitioner appears to be cavalier, but in the interest of justice and prevent miscarriage of justice, petitioner should be given a chance to contest the execution application regarding the attachment of the residential house as it was not a mortgaged property. In my view, serious prejudice would be caused in case the petitioner is not allowed to file the objections.

In such circumstances, it would be appropriate to permit the petitioner to join the execution application subject to costs of Rs. 20,000/- which shall be paid to the plaintiff/deeree-holder.

Present revision petition is disposed of accordingly.

February 27, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No