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

CR-6053-2013 (O&M)

Date of decision : 05.04.2019

Joginder Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.P. Rana, Advocate
for the petitioner.

Mr. Pawan Kumar Jangra, Addl. A.G., Haryana.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 06.05.2013, whereby the execution application of the petitioner seeking execution of the judgment and decree dated 01.05.1995, has been dismissed.

Learned counsel for the petitioner submitted that the trial Court has erroneously dismissed the application by giving the following observation:-

"Learned counsel for DH mainly contended that amount paid was first towards interest, then towards costs and then towards principal. However, in this case, JD has specially indicated that under what head the amount has been deposited. Since, no objection was raised by DH at the time of deposit of the amount, therefore, DH is not entitled for ratio of case laid down by Hon'ble Supreme Court in case of Gurpreet Singh V/s

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Union of India (Supra). Since entire payment has been made by the JD, no amount is due against JD."

Learned State counsel submitted that once the petitioner did not raise any objection, cannot claim the apportionment of the amount towards first interest, costs and then, principal.

I am afraid the argument of the State Counsel is not sustainable as the reasoning, aforementioned, in my view, is totally atrocious, much less, fallacious. There is no rule of law that if no objection had been taken, the decree holder cannot raise the objection, the law has to prevail.

Keeping in view the aforementioned facts, the impugned order, under challenge, is set aside and the trial Court is directed to decide the execution application, afresh as per the prevailing law.

With the aforesaid observations, the present revision petition stands disposed of.

05.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**