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

**EFA No.2 of 2019 (O&M)
Date of Decision: 08.02.2019**

AMARJIT KAUR

.....Appellant

Vs

**M/S SHRI RAM FINANCE TRANSPORT CORPORATION
COMPANY LTD. AND ORS**

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.S. Sarwara, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

[1]. This appeal has been preferred against the order dated 20.12.2018 passed by the Addl. District Judge, vide which objections under Order 21 Rule 58 CPC raised by the appellant were dismissed.

[2]. Appellant is the daughter of Tarsem Singh, who had availed loan from the respondent No.1/Company. The award was passed in favour of respondent No.1 on 27.01.2015. Appellant has filed objections under Order 21 Rule 58 CPC against the attachment of house on the ground that the house is protected in terms of Section 60(1)(CCC) CPC.

[3]. On the other hand, decree holder has pleaded fraud at the instance of the appellant and her father on the ground that the objector is having fiduciary relationship with the judgment-debtor. After availing loan facility on 26.07.2012, the judgment-debtor defaulted in making payment of installments. Resultantly award was passed on 27.01.2015. During the intervening period, the judgment-debtor executed a release deed in favour of his daughter i.e. the objector on 03.11.2014. Even the objector filed an independent suit i.e. Civil Suit No.399/2013 in which no stay was granted.

[4]. I have considered the submissions made by learned counsel for the appellant.

[5]. It is a settled principle of law that all frivolous objections are not necessarily to be decided by way of following proper procedure. The alleged plea of purchase by the objector/appellant for consideration of Rs.8,62,000/- in the year 2009 cannot be appreciated in view of the fact that the release deed was executed on account of love and affection by the judgment-debtor in favour of the objector. Even otherwise, the appellant kept mum for more than five years from the date of alleged purchase for consideration.

[6]. Once the parties went to trial fully knowing the rival case and led evidence, then non-framing of issue is not fatal to

the case. In such eventuality, it cannot be said that the absence of an issue was fatal to the case or the same has resulted in mis-trial or vitiated the proceedings in any manner.

[7]. In view of above, there is no scope of interference in the impugned order passed by the executing Court. This appeal is accordingly dismissed.

February 08, 2019	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No