

CR No.9026 of 2017 (O&M)

Date of Decision:21.08.2019

BALWINDER SINGH

...Petitioner

Versus

SUDESH PUNJ AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Varun Jain, Advocate
 for the petitioner.

Mr. Anupam Sharma, Advocate
for the respondents.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against order dated 08.11.2017 passed by the Additional Civil Judge (Senior Division), Khanna (for short-the Executing Court), through which property of the petitioner was ordered to be attached and auctioned.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition are that respondent No.1 along with respondent No.2 filed a petition for grant of maintenance under Section 18 of the Hindu Adoption & Maintenance Act, 1956. In such suit, a declaration was also sought to the effect that they have a charge over the share of the property of the petitioner detailed and described in the head note of the plaint. The petitioner was further sought to be restrained from alienating, transferring, mortgaging etc. the suit property till the time he pays the entire

dues payable towards the respondents.

The aforesaid suit was decreed by the Trial Court on 08.01.2014. Such decree reads as under;-

“It is hereby ordered that the present suit succeeds and same is partly decree with costs, for recovery of maintenance at the rate of Rs.1500/- (Rupees one thousand five hundred) per month to Plaintiff No.1 w.e.f. October, 2005 and Rs.1000/- (Rupees one thousand) per month to Plaintiff No.2 w.e.f September, 2005. The amount of maintenance shall be first charge over the property of defendant fully described in the head-note of the plaint.”

Since the petitioner failed to pay the decretal amount, the respondents filed an application before the Executing Court seeking therein recovery of ₹1,42,000/- from the petitioner which according to them was due towards them by him.

Even during the execution proceedings when the petitioner failed to satisfy the aforesaid decree dated 08.01.2014, the Executing Court ordered attachment and sale of the petitioner's property. Such order is under challenge in the present proceedings.

At the time of issuance of notice by this Court, the petitioner was ordered to deposit the decretal amount of ₹1,42,000/- before the Executing Court.

Learned counsel for the parties are in agreement that the decretal amount, as directed by this Court, has been deposited by the

petitioner before the Executing Court.

Admittedly the entire decretal amount payable to the respondents is ₹1,42,000/- and since the same has been deposited by the petitioner before the Executing Court, it is directed that the same be released by the Executing Court in favour of the respondents.

The above direction would satisfy the decree dated 08.01.2014 and therefore, the impugned order is set aside.

The petition is disposed of in the above terms

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(DEEPAK SIBAL)

JUDGE

August 21, 2019

Jyoti-1 Whether speaking/reasoned Yes/No Whether Reportable Yes/No