

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

money along with interest @ 9% from the date of filing of the suit till payment of the decretal amount. Objections were filed by the legal heirs of judgment-debtor Raman @ Sanju (since deceased).

[3]. The aforesaid objections were dismissed vide order dated 28.05.2018 passed by the Civil Judge (Jr. Divn.) Kaithal. It was observed that the legal representatives are the legal heirs of judgment-debtor Raman @ Sanju son of Kanwar Bhan. Objector No.1 is the widow of Raman, whereas objectors No.2 and 3 are the children of judgment-debtor. The house was inherited by all the legal heirs of Kanwar Bhan in equal shares. Raman Kumar was not the absolute owner of the said house. The plea with regard to Section 60(1)(ccc) CPC was held to be available to the judgment-debtor and not to the heirs. Consequently, vide order dated 20.08.2018 passed by the Civil Judge (Jr. Divn.) Kaithal, the Court modified the earlier award thereby releasing 2/3rd share of the objectors namely Jyoti Rani and Geeta D/o Kanwar Bhan from attachment, however 1/3rd share of the house belonging to the judgment-debtor was ordered to be attached.

[4]. In view of law laid down in **Bikram Singh vs. Surjit Singh and others, 2004(4) R.C.R. (Civil) 422; Mahender Kumar vs. Mangal Singh, 2013(4) R.C.R. (Civil) 342** and

Sheela Rani vs. Punjab and Sind Bank Ltd., 1994(1) PLR

583 what is exempted under Section 60(1)(ccc) CPC is the sale and attachment of residential house in occupation of the judgment-debtor. Since the decree is for specific performance of agreement to sell of the house, therefore, the residential house is not being attached or sold in execution of the decree, but the decree for specific performance is being executed and as a consequence thereof, the possession is being sought by the decree holder. Suit for specific performance at the instance of the decree holder was in relation to the residential house agreed to be sold by the defendant to the residential house agreed to be sold by the defendant to the plaintiff. The parties entered into a lawful agreement to sell, suit was decreed and the decree holder is enforcing the decree. Judgment-debtor cannot contend that the property could not be sold. Even the conduct of the judgment debtor himself is violative of his own stand.

[5]. In view of aforesaid ratio, the trial Court has already exempted 2/3rd share of the house from attachment. The remaining 1/3rd share in the house is of judgment-debtor and his legal representatives cannot escape their liabilities to answer the claim of the decree-holder for recovery of the decretal amount.

[6]. In view of aforesaid, this revision petition is found to be

totally devoid of merits and the same is accordingly dismissed.

[7]. Since the revision has been dismissed on merits, therefore, there is no need to pass any order in the application for impleadment of legal heirs of the deceased Raman @ Sanju.

February 27, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No