

CR-1879-2019

206

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

CR-1879-2019

Date of decision : 22.04.2019

Jaswant Singh and others

... Petitioners

Versus

Major Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.M. Munjal, Advocate
for the petitioners.

Mr. Parshant Bansal, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

This Court, on the basis of the arguments addressed by the counsel for the petitioners based upon the instructions received by him from the client and affirmed in the affidavit, while issuing notice of motion as well as calling the comments of the concerned Judicial Officer, passed the following order:-

"This Court, vide order dated 23.01.2018 while setting-aside the order dated 07.10.2017, remitted the matter to the trial Court. The impugned order passed thereon reads as under:-

"This order will dispose off the objections filed by the JD under Order 21 Rule 66 CPC. 2. It is submitted by the JD that the applications filed by the DH under Order 21 Rule 66 CPC is liable to be dismissed being not properly drafted. No time and place for sale is mentioned in the notice issued to the JD's, nor this plea has been taken by

the decree holder in his application. It is further submitted that the decree holder has not mentioned in his application that which part or how many property would be sufficient to satisfy the decree. It is also not mentioned in the application that whether any revenue assessed upon such estate is being paid to Govt. or not. Moreover, the amount of recovery for which sale is ordered also not mentioned in the application. Lastly, a prayer for dismissal of the application U/o 21 Rule 66 CPC has been made. 3. The decree holder filed reply by denying the averments of the objections. It is submitted that the objections have been filed only to linger the matter. The Jamabandi has already been produced on the file, which clearly shows the property to be auctioned through the execution proceedings. As per the decree holder/respondent, the applicant was well within the knowledge of the sale of the property ad decretal amount as the decree has already been passed and till date no specific order with regard to stay of execution has been placed on record by the JD. By denying the remaining averments, a prayer for the dismissal of the objections have been made. 4. After hearing the submissions of both the parties, this Court is of the opinion that the due notice has been provided to the UJD with regard to the sale of the property and simply by raising vague objection no sale is likely to be stayed. The JD was fully aware with regard to the passing of the judgment and decree in question and the executing Court is duty bound to execute the decree in its letter and spirit. Accordingly, at this stage the objections filed by the objector under Order 21 Rule 66 CPC stands dismissed.”

Mr. Parshant Bansal, Advocate, has appeared on behalf of the respondent.

As per office report, the comments of concerned Judicial

CR-1879-2019

Officer have been received.

Today during the course of the hearing, it was apprised that in pursuance to the decision taken in the order of this Court i.e. 23.01.2018, in CR No.8171 of 2017, the trial Court had passed the separate order dated 18.07.2018.

The aforesaid fact was never disclosed to this Court nor the zimini orders passed from time to time till proclamation of sale i.e. impugned order dated 20.02.2019.

Mr. Munjal, learned counsel appearing on behalf of the petitioners submitted that the petitioner did not apprise him about the aforesaid fact.

The filling of the present revision petition is a gross attempt to mislead the Court and act of circumvention by not disclosing the order dated 18.07.2018.

The conduct of the petitioner is highly deplorable. Accordingly, the present revision petition is dismissed with costs of ₹10,000/- to be paid to the respondent. In case of non-payment of the costs, the respondent shall be at liberty to seek the implementation of the order, in accordance with law.

22.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**