

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

CR no.2889 of 2019

Date of Decision: 16.05.2019

Naresh Kumar

...Petitioner

Vs.

Jarnail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Petitioner-in-person.

Amol Rattan Singh, J (Oral)

Pursuant to the order dated 03.05.2019, the petitioner wishes to place on record his affidavit dated 13.05.2019 (with the numeral 3 added in hand at two places to the numeral 1), stating to the effect (amongst other things) that he was always willing to participate in the sale bid, i.e. in the auction proceedings ordered by the executing court (as regards the property of the judgment-debtor) to satisfy the decree passed in favour of the petitioner, i.e. the decree holder.

Though the affidavit is being filed in Court and not by way of a proper application through the Registry, however, in view of the conflicting stand taken by the petitioner, the affidavit is taken on record as Annexure P-5 with the petition, simply to ensure that no allegation as regards what the petitioner has actually stated and what is quoted in any order, can be made.

Having said that, it is to be noticed that the prayer made in the present petition is to the following effect:-

“12. That the impugned orders are based upon mere surmises and conjectures and are therefore, liable to be set aside.

It is therefore, respectfully prayed that:-

- i. The present revision petition be accepted & the Orders dated 05.01.2019 (P-1), 22.2.19 (P-3) and 1.3.19 (P-4) passed by learned Addl. Civil Judge (Sr. Divn.) Jaitu vide which Rs.5000/- as cost has been imposed upon the petitioner and the petitioner is being compelled to participate in the Sale proceedings and the applications filed for recalling the said order dated 5.1.19 has been dismissed, may kindly be set aside.
- ii. The petitioner be exempted from filing the certified copies of Annexures P-1 to P-4.
- iii. It is further prayed that during the pendency of the present revision petition the proceedings in the execution application may kindly be stayed in the interest of justice.”

Thus, the petitioner is challenging the aforesaid orders firstly on the ground that costs of Rs.5,000/- have been incorrectly/wrongly imposed upon him and secondly, stating that he has been compelled to participate in the sale proceedings.

On the other hand, in the affidavit that he has produced in Court, it is to be noticed that it is stated in paragraph 1 thereof that the decree-holder/petitioner previously, as well as in the future always, is ready and willing to participate in the sale bid.

The stand apparently taken in paragraph 5 of the petition however reads as follows:-

“That thereafter the property was also put for sale but the decree holder, i.e. petitioner did not participate in the bid and did not went to the spot. In view of this, the learned ACJ (SD) Jaitu vide his order dated 05.01.2019 imposed the cost of Rs.5000/- on the petitioner on the ground that the petitioner is delaying the proceedings. The petitioner was directed

to present before learned Tehsildar, Jaitu on 06.02.2019, 07.02.2019 and 08.02.2019 respectively. It is further mentioned that if the petitioner shall not participate in the sale proceedings then no opportunity shall be granted to him. Copy of order dated 05.01.2019 is attached herewith as Annexure P-1.”

Hence, it is very obvious that in the said paragraph it has been admitted that the petitioner did not participate in the bid and did not go to the spot, as a consequence of which he was imposed costs of Rs.5000/-, because it was the opinion of the executing court that he was delaying the proceedings.

Subsequently, in paragraph 6 of the petition, it is again stated that the petitioner is being compelled to participate in the sale bid though the respondent and his son are threatening him and asked him not to so participate and therefore the Court cannot force him to so participate.

In paragraph 9 of the petition, it is again stated that there is no provision that a Court can compel the decree-holder to participate and made a bid to purchase the attached property, and neither any cost can be imposed upon him.

The petitioner submits that the petition having been wrongly drafted, he wishes to withdraw it and to file a petition with better particulars.

He has been asked twice by this Court as to whether he wishes to actually withdraw this petition as above or not, to which he reiterates that he wishes to withdraw it with liberty to file a fresh petition with better particulars.

Without making any comment on the merits of the petition or what is stated therein, or even with regard to what is stated in the affidavit filed in Court today (taken on record as Annexure P-5), this petition is ordered to be dismissed as withdrawn, with liberty to the petitioner to file another one challenging the same order if he wishes to, but within a reasonable period of time.

Naturally, any such petition filed would be dealt with wholly on its own merits.

16.05.2019
vcgarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : No