

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

CR-3078-2019(O&M)

Date of decision:-4.7.2019

Kulwant Singh

...Petitioner

Versus

M/s Ganesh Dass Des Raj, Commission Agents, Guruharsahai

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ashok Kumar Sama, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

This revision petition is directed against order dated 19.3.2019 passed by Additional Civil Judge (Sr.Divn.), Guruharsahai vide which the said Court had dismissed the objection petition filed by the J.D. – Kulwant Singh, who is revisionist before this Court. The revisionist – J.D./objector prays that the revision petition be accepted, the impugned order be set aside and the objection petition be allowed.

Briefly stated, the facts of the case are that decree-holder - M/s Ganesh Dass Des Raj, Commission Agents, Guruharsahai had filed an execution application for execution of decree passed in its favour and

against Kulwant Singh – J.D., therein Kulwant Singh – J.D. appeared and filed an objection petition contending that the property, which has been attached is not in the form of agricultural land and there exists a residential house over the same; that as per law a residential house cannot be attached, therefore objection petition be accepted and execution application be dismissed. The said objection petition was opposed by the decree-holder. After hearing both the parties, the Executing Court dismissed the objection petition, which left the J.D./objector aggrieved and he has approached this Court by way of filing the revision petition.

I have heard learned counsel for the revisionist besides going through the record.

The Executing Court referring to jamabandi for the year 2015-16 has observed that the land in question is agricultural land, which is shown to be canal irrigated. The jamabandi is an important document to see the type and nature of the land. The Executing Court has specifically observed that in rebuttal to the jamabandi, the J.D. had not placed on record any proof/document showing that the attached property was in the form of residential house. The Executing Court has observed that it appeared that the objector had filed the objection petition just to delay the execution proceedings, as such dismissed the objection petition.

Learned counsel for the revisionist/objector has submitted that he has attached a site plan of the house and photographs thereof along with the resolution of Gram Panchayat to show that the property attached is in the form of residential house. He has referred to authority

Pathmavathi Karippaprambil, 65 years W/o Rajan, Edappal Amsom,

Thuyyam Desom Pannoni Taluk, Thuyyam P.O, Edappal Malappuram

Versus Sheeja Makkoram Veetil D/o. Gopalakrishnan, Makkoramveettil

House, P.O. Ponnani Malappuram, 2016 AIR CC 1314 in support of his contention that in terms of Section 60, a residential house cannot be put to sale.

After hearing learned counsel for the revisionist, I find that his contentions are without force and cannot be accepted. Firstly, without adequate proof, it cannot be said that the site-plan and the photographs relate to the property in question. Similarly, a resolution of the village Panchayat cannot override the entries in the jamabandi, to which presumption of truth is attached under Section 44 of the Punjab Land Revenue Act since the revenue officials, who are Government servants and who prepare the revenue record after spot inspection have no motive to prepare record contrary to the factual position at the spot.

The order passed by the Executing Court is detailed and well reasoned. It does not come out to suffer from any illegality or infirmity much less apparent on the face of it. The order is certainly not perverse or passed in an arbitrary manner. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

As regards the authority **Pathmavathi Karippaprambil's** case (supra) referred to by learned counsel for the revisionist, the same does not find application to the present case since no sufficient evidence is there to show that the property in question is in the form of residential

house.

Therefore, the revision petition stands dismissed.

4.7.2019

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No