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

**Civil Revision No.3568 of 2019 (O&M)
Date of Decision: 29.05.2019**

Ranjit Singh

.....Petitioner

Vs

Bharpur Singh

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Onkar Singh, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition for setting aside the order dated 16.12.2017, sale warrant dated 01.05.2018 and order dated 01.05.2019 passed by the executing Court.

[2]. In a suit for recovery filed by the respondent/plaintiff, a decree for recovery was passed. In execution of the said decree, warrants of attachment could not be issued as the list of properties was not filed. Fresh warrants of attachment were ordered to be issued in respect of the property. The Court found that the judgment-debtor/petitioner has executed a sale deed during pendency of the case. After attachment of the property

proclamation in terms of Order 21 Rule 64 CPC was made. An amount of Rs.15,19,558/- was to be deposited by the judgment-debtor. The said amount was not deposited and the house belonging to the petitioner was attached in order to satisfy the decree. A conditional order was passed that in case the amount is deposited by the judgment-debtor along with expenses of auction before the auction is completed then, the process of auction will be stopped. Schedule of auction was framed on 01.05.2018.

[3]. Thereafter the judgment-debtor filed objections by taking plea that the house in question is the only residential house and the same is protected under Section 60(1)(ccc) CPC.

[4]. The objections have been dismissed by the executing Court vide order dated 01.05.2019 on the ground that the petitioner has not filed any proof that the attached property is the only residential house of the judgment-debtor.

[5]. In the objections filed by the petitioner, it was pleaded that the house in question is the only residential house. The objections were filed on 10.05.2018. The impugned order was passed on 01.05.2019 i.e. after about 1 year of the filing of the objections. Petitioner had all the opportunity to lead evidence that the house in question is the only residential house and no

other house is in existence.

[6]. Evidently, the petitioner had properties which he had already sold during pendency of the suit in order to ward off his liability. Even as per photographs attached with the present petition, the house in question is of A-class construction. There is shed for cattles owned and possessed by the petitioner. Petitioner has all the means to discharge his liability. In such a situation, protection under Section 60(1)(ccc) is not attracted as the petitioner has means to pay for his liability.

[7]. Even during pendency of the suit, he has sold his properties in order to stall the execution. Petitioner has not come to the Court with clean hands. Petitioner has not filed any objection under Order 21 Rule 89/90 CPC. The case has reached the stage of auction of the house in question which has been charged with the liability of the petitioner. Since the house has already been attached and is going to be auctioned, therefore, at this stage an arrangement can be made that in case petitioner deposits the amount in question even after the auction proceedings, then in such eventuality, the confirmation of auction can be deferred.

[8]. For the reasons recorded hereinabove, I deem it appropriate to grant one and last opportunity to the petitioner to

deposit the decretal amount along with interest till date to the satisfaction of the executing Court within a period of one month from today. The auction proceedings may go on, but the same may not confirmed for a period of one month in order to enable the petitioner to pay off his liability to the satisfaction of the executing Court.

[9]. With the aforesaid observations, this revision petition is dismissed.

May 29, 2019

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No