

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

C.R. No. 3639 of 2019

DATE OF DECISION :- May 29, 2019

Rajinder Singh

...Petitioner

Versus

Surmukh Singh and others

...Respondents

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

Present:- Mr. Ajay Kumar Gupta, Advocate for the petitioner.

This revision petition is directed against the order dated 13.5.2019 passed by Additional Civil Judge (Sr. Divn.), Kurukshetra in Execution Petition No. 14 of 2016 filed by respondent No. 1 decree holder Surmukh Singh vide which application of petitioner under Sections 38 and 39 (4) CPC to dismiss the execution petition for want of territorial jurisdiction was dismissed with cost of Rs.10,000/- and conditional warrants of arrest of judgment debtor for recovery of amount of Rs.3 lacs along with interest were issued.

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

Learned Executing Court in the impugned order has noticed that judgment debtor had filed an application to set aside the ex-parte judgment and decree under Order 9 Rule 13 CPC which was dismissed. He had filed first appeal and second appeal against that order, in which the judgment debtor himself mentioned his address to be resident of Village Ram Nagar, Tehsil Thanesar, District Kurukshetra and if the judgment debtor is occasionally residing at any other address as averred in the application that does not make any difference.

Further more the decree holder has placed on record copy of sale deed dated 10.5.2011 vide which the judgment debtor has sold certain land wherein he has given his address to be Village Ram Nagar, Tehsil Thanesar, District Kurukshetra which falsify the averments made by judgment debtor in the application that he is residing in District Bijnor since the year 1999 and there was nothing on record to plea that the judgment debtor is residing outside the jurisdiction of the Court. Further more during pendency of the execution petition the decree holder had appeared in the executing Court on 5.12.2017 and on 4.5.2018 he had made partial payment of Rs.18,000/- further promising to pay Rs.40,000/- by the next date of hearing. Disbelieving the contents of the application the Executing Court observed that this is misuse of process of law and dismissed the application with cost of Rs.10,000/-.

The impugned order is well reasoned and does not suffer from any illegality or infirmity much less the order being perverse, arbitrary or having been passed against settled principle of civil law. There is no error apparent on the face of that order, therefore, no interference with the impugned order is called for by exercising revisional jurisdiction.

Revision petition being without merit is dismissed.

(H.S. MADAAN)
JUDGE

May 29, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No