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

**Civil Revision No.3997 of 2019 (O&M)
Date of Decision: 02.07.2019**

Naresh Rani

.....Petitioner

Vs

Manjit Kaur and others

....Respondents

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

Present: Mr. Abhishek Sethi, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 16.05.2019 vide which the objections filed by her under Order 21 Rule 58 CPC were dismissed for recalling of warrant of attachment issued qua the property bearing house No.698/3 (Property No.1818/4).

[2]. Petitioner claimed herself to be the 3rd party in the execution against judgment-debtor, who happens to be her husband. She claimed that the property in question was transferred in her favour on 03.08.2018. Original transfer deed has not been placed on record except a mere copy of the same executed by her husband in her favour. A suit for recovery of Rs.1,51,330/- with interest was filed by the plaintiff against

husband of the petitioner. The suit was dismissed by the trial Court vide judgment and decree dated 21.09.2013, however in appeal filed by the plaintiff, the same was partly allowed for recovery of Rs.90,000/- with interest @ 12% per annum from the date of suit till realization of the amount vide judgment dated 03.11.2015 passed by the Addl. District Judge, Patiala. The said judgment has attained finality.

[3]. In the execution of the aforesaid decree, the executing Court attached the property in question as per the list of properties furnished by the decree holder. The executing Court found that list of properties was filed and warrant of attachment was issued on 18.05.2018. Thereafter warrant of attachment was again issued on 18.07.2018 and then on 24.08.2018. It was finally received on 26.09.2018. Petitioner got the transfer deed executed in her favour during the intervening period on 03.08.2018 i.e. during pendency of the proceedings. Petitioner had the knowledge of the litigation as the suit was duly contested before the trial Court as well as before the lower Appellate Court.

[4]. Husband of the petitioner is undergoing punishment on account of disobedience of the order of the Hon'ble Apex Court. Admittedly, the property originally belong to the judgment debtor/husband of the petitioner. The property was transferred

in favour of the petitioner in a very fanciful manner so as to ward off the liability arising out of the judgment and decree passed by the lower Appellate Court in execution.

[5]. The objection of the petitioner with regard to her *bona fide* cannot be entertained except to dismiss the same being frivolous in nature. Judgment debtor has lost the substantive litigation. In objection, the executing Court is not obliged to decide all frivolous objections by way of following proper procedure of framing issues and then to allow the parties to lead evidence. Such objections can be dismissed summarily. The resistance at the instance of a person having no locus should be treated to be mere an attempt to delay the proceedings of execution in view of law laid down by the Hon'ble Apex Court in **M/s Sunil Auto Service vs. Parikshant Suri and others, 2011(1) R.C.R. (Rent) 452** and **Rana Mahajan and another vs. Shri Purshottam Krishan and others, 2014(2) R.C.R. (Civil) 331.**

[6]. The objection filed by the petitioner under Order 21 Rule 58 CPC are conspicuous about the date on which the transfer deed was executed in favour of the petitioner. The transfer deed came to be executed only during pendency of the execution. Such an attempt can only be held to be a devise to thwart the process of execution by way of putting frivolous claim

to the property. It is not a case of the petitioner that the transfer deed was executed by the judgment-debtor on account of any liability towards maintenance of the petitioner-wife in some matrimonial litigation. In the absence of any such plea and ground taken by the petitioner, the resistance put forward by the petitioner cannot be held to be *bona fide* and the Court is not under any obligation to decide such type of frivolous objections by way of following proper procedure of framing issues and thereafter allow the parties to lead evidence. Frivolous objections can be rejected summarily without resorting to any proper procedure.

[7]. In view of aforesaid, this revision petition is found to be totally devoid of merits and is accordingly dismissed.

July 02, 2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No