

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CRM-M-43733-2019

Date of Decision:13.12.2019

Vandana Malik and others

.....Petitioners

Versus

Iype Cherian

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Akshay Kumar Jindal and
Ms. Stuti Goel, Advocates,
for the petitioners.**

**Mr. Manish Soni, Advocate,
for the respondent.**

HARI PAL VERMA, J.(Oral)

The petitioners have filed the present petition under Section 482 Cr.P.C. for issuance of direction to the Executing Court, so as to complete the execution proceedings pending between the parties under Section 125 Cr.P.C. in a time bound manner.

Learned counsel for the petitioners has argued that on a petition filed by the petitioners under Section 125 Cr.P.C., learned Family Court, Gurugram, vide judgment dated 13.04.2018 has awarded maintenance to the petitioners @ ₹2,40,000/- per month from the date of filing of the petition. However, the awarded maintenance was not paid to the petitioners. Therefore, the petitioners have filed the execution petition of the judgment dated 13.04.2018. He further submits that in the aforesaid execution, the

respondent has filed the objections against the judgment dated 13.04.2018

to which the petitioners have already filed their reply. But instead of awarding maintenance to the petitioners, learned Family Court has decided to dispose of the objections first before proceeding further in the execution proceedings.

Pursuant to the order dated December 09, 2019 passed by this Court, the respondent is present in person.

At this stage, learned counsel for the respondent has submitted that the learned Family Court had passed the order dated 13.04.2018 at his back and he was not served in the case. Even the recourse of service by way of publication has not come to his notice for the reason that the respondent was not in India and is working in Nepal and therefore, the order dated 13.04.2018 was passed at his back necessitating the respondent to file objections in the execution proceedings. The respondent has otherwise been appearing in other proceedings pending between the parties.

After hearing learned counsel for the parties and noticing the fact that the learned Family Court has awarded maintenance to the petitioners vide judgment dated 13.04.2018, to which the petitioners have filed the execution petition. The respondent has pleaded that he was not served in the case when the judgment dated 13.04.2018 was passed. Therefore, he has filed objections before the Executing Court.

Accordingly, at this stage, the present petition is disposed of with a direction to the learned Family Court, Gurugram, to decide the objections filed by the respondent expeditiously and preferably within a period of two months from today.

The respondent is directed to cooperate with the proceedings and he shall not be entitled to take the plea of his non-availability or non-

representation before the Court, where the dispute is pending between the parties.

As regards the argument of the learned counsel for the respondent that the respondent is working in Nepal in some charitable hospital and therefore, he be granted exemption from his personal appearance for this relief, the respondent is at liberty to make such prayer before the Court, where the matter is otherwise pending consideration.

With this, the present petition is hereby disposed of.

December 13, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No