

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

Civil Revision No.6800 of 2019 (O&M)

Date of decision: 05.12.2019

Daman

.....Petitioner

Versus

Amarjit and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amardeep Sheoran, Advocate,
for the petitioner.

Ritu Bahri, J.

This petition has been filed against the judgment dated 31.08.2019 (Annexures P-2) passed by the Additional District Judge, Rewari and order dated 06.03.2019 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Kosli, whereby objections filed by the petitioner have been dismissed.

Daman-petitioner is the real brother of Pawan-JD (respondent No.2 herein). Respondent No.1-Amarjit had filed a complaint under Section 138 of the Negotiable Instruments Act against Pawan Kumar-respondent No.2. Vide judgment dated 05.08.2015 passed by the Judicial Magistrate Ist Class, Kosli, Pawan Kumar was convicted and sentenced. Thereafter, he filed an appeal before the Court of Sessions Judge, Rewari. Later on, the matter was compromised before the parties before the National Lok Adalat and accordingly, an award dated 12.11.2016 was passed. On 25.08.2015, Pawan Kumar-JD executed a transfer deed in respect of his immovable property in favour of his real brother Daman (present petitioner). Pursuant

to the compromise dated 12.11.2016, Pawan Kumar gave two cheques bearing No.386906 dated 12.11.2016 for Rs.10 lacs and No.386907 dated 12.11.2016 for Rs.01 lac drawn on Corporation Bank, Rewari. However, on 09.01.2017, cheque bearing No.386906 dated 12.11.2016 for a sum of Rs.10 lacs was stolen by Pawan Kumar-JD. In this regard, FIR No.06 dated 10.02.2017 was got registered at Police Station, Jatusana. Even after registration of the FIR, no fresh cheque was given to Amarjit. Hence, the intention of Pawan Kumar was not to give the amount.

Since the matter had been compromised before the Lok Adalat, Amarjit filed an execution petition. During the pendency of execution, present petitioner Daman filed third party objections. The executing Court, after hearing learned counsel for both the parties, dismissed the objections vide order dated 06.03.2019 (Annexure P-1) on the ground that JD-Pawan Kumar was convicted vide judgment dated 05.08.2015 and thereafter, the matter was compromised on 12.11.2016. After conviction, Pawan Kumar had executed the transfer deed qua his property in favour of his real brother Daman on 25.08.2015 in order avoid payment of amount to Amarjit. There was no evidence to show that this property was actually purchased by Daman as no detail of the bank transaction was produced. The only evidence led was a document showing the transfer of land in the name of Daman by his brother Pawan Kumar. The attachment proceedings shows that there was no property in the name of Pawan. As per Jamabandi for the year 2011-12, Pawan, his brothers Aman and Daman had mortgaged their share of land with the bank for Rs.22 lacs and they had not paid the amount to the bank. The lower appellate Court had observed that Daman had no source to purchase the land of his brother Pawan Kumar. All three brothers, including

Pawan and Daman were defaulters.

After hearing learned counsel for the petitioner and going through the impugned orders/judgments, this Court is of the view that transfer of land in the name of Daman (petitioner) was an attempt to avoid making payment pursuant to the compromise dated 12.11.2016. Moreover, the said transfer had been made pursuant to the judgment dated 05.08.2015, whereby Pawan Kumar had been convicted and sentenced for commission of offence under Section 138 of the Negotiable Instruments Act. In this view of the matter, the objections filed by the present petitioner, who is brother of Pawan Kumar, have been rightly dismissed by both the Courts below. Resultantly, having examined the impugned order/judgments, no illegality much less perversity, has been found therein warranting interference by this Court.

No merits. Dismissed.

05.12.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No