

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

CR No.7048 of 2019(O&M)
DATE OF DECISION:07.11.2019

Krishan Lal

...Petitioner/JD

Vs.

Ramesh Kumar and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE LALIT BATRA

Present: Mr. Ashwani Talwar, Advocate
for the petitioner/JD.

LALIT BATRA, J. (Oral)

Instant civil revision has been filed by petitioner/JD-Krishan Lal impugning the legality of order dated 31.10.2019 (Annexure P-1), in terms of which, objections under Section 47 CPC moved by petitioner/JD, have been dismissed.

2. Learned counsel for the petitioner/JD at the very outset has urged that though objections in detail were filed by petitioner/JD and then respondent No.1/DH had filed reply thereof, however, Executing Court without discussing pros and cons of objections and that too without giving any reasons, has disposed of said objections.

3. I have heard learned counsel for the petitioner/JD and have carefully gone through the contents of objection petition, reply thereof

and impugned order as well.

4. Before proceeding further, it would be appropriate to go through impugned order, which is reproduced as under:-

“Arguments heard on reply as well as objections filed by JD. The objections are without substance. The law is well settled that executing Court cannot go behind the decree. In these circumstances, objections filed by JD are hereby dismissed. Admittedly, there is not stay etc. on the proceedings. Let warrant of possession with police help be issued for 07.12.2019 as per order dated 15.10.2018.”

5. Law requires that objections as raised are liable to be adjudicated upon by passing speaking order. Principle of “right of hearing” is not only confined to the aspect that litigating parties must be given proper hearing in the Court, but apart from that it is incumbent upon the Court that matter in issue placed before it, said matter is dealt with by passing speaking order comprised of reasons, leaving no scope of doubt in the mind of either of the litigating parties. However, a bare perusal of objection petition moved by petitioner/JD under Section 47 CPC, reply thereof by respondent No.1/DH and impugned order clearly reveals that in the instant case, Executing Court while keeping aside above said basic principle of legal jurisprudence, has dealt with objections under Section 47 CPC in cursory manner and that too without giving any reasons. Above said approach of Executing Court cannot be

appreciated.

6. In view of above, since impugned order dated 31.10.2019 (Annexure P-1) is a non-speaking order, it cannot be sustained in the eyes of law. Instant civil revision is allowed. Resultantly, impugned order dated 31.10.2019, in terms of which, objections under Section 47 CPC moved by petitioner/JD, were dealt with in cursory manner by the Executing Court, said order is set aside. In this scenario, matter is remitted back to the Executing Court to deal with objections under Section 47 CPC moved by petitioner/JD in accordance with law. Nothing contained herein before shall mean any expression of my opinion on the merits of above said objection petition.

7. Disposed of accordingly.

(LALIT BATRA)
JUDGE

07.11.2019

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