

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

**CR No. 8055 of 2019(O&M)
Date of decision: 13.12.2019**

Sudesh Sharma

... Petitioner

Versus

Sataywan and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

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

ARUN PALLI, J. (Oral)

The petitioner is aggrieved by an order dated 21.8.2019 (Annexure P-3), vide which her application under Order 1 Rule 10 of the Code of Civil Procedure, has since been dismissed.

Concededly, in a suit filed by respondent No.1, a decree dated 16.5.2018 for recovery of Rs. 6,12,000/- with interest, has since been passed against the husband of petitioner (Ishwar Sharma-respondent No.2). The proceedings as regards execution of the said decree are pending before the executing court. The limited grievance that the petitioner has is that she had moved an application to be arrayed as party to the said proceedings, as owing to certain disputes between the petitioner and her husband, a compromise dated 27.7.2015 was arrived at, pursuant whereeto, her husband was required to pay her Rs. 20 lakhs out of his retiral benefits, but as he had not fulfilled his obligation, thus, she had a first charge over his retiral benefits to recover the agreed amount.

Ex facie, the petitioner was not a party to the decree dated 16.5.2018, which is sought to be executed by respondent No.1 against respondent No.2. For execution of the said decree, the petitioner is neither necessary nor a proper party. Her grievance: that despite a compromise dated 27.7.2015, her husband has failed to pay her Rs. 20 lakhs out of his retiral benefits, could hardly be a ground to seek arraignment to the execution proceedings pending between respondents No.1 and 2. On the contrary, If the petitioner has any enforceable right to realise/recover any amount from her husband, she could always resort to necessary measures as admissible in law. Rather, the District Judge/Family Court, Bhiwani, vide order dated 13.9.2018 (Annexure P-2), while dismissing the execution petition filed by petitioner against her husband as infructuous, had observed, ***“however, decree-holder is at liberty to file fresh execution petition, as and when judgment-debtor received retiral benefits.”*** Thus, viewed from this perspective, it rather appears that petitioner had moved an application to be arrayed as party to the execution proceedings in connivance with her husband, i.e. respondent No.2, to thwart the execution proceedings. The revision petition lacks bonafides.

That being so, this Court is dissuaded to interfere with the impugned order and discretion exercised by the trial court. The petition is accordingly dismissed.

(ARUN PALLI)
JUDGE

December 13, 2019
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	NO