

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 8037 of 2019

Date of decision : December 13, 2019

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Surinder Kaur

.....Petitioner

Versus

Rama Rani

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Gagandeep Singh Virk, Advocate
for the petitioner.

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RITU BAHRI, J.

Petitioner-Surinder Kaur has come up in the present revision petition against the order dated 23/10/2019 (Annexure P-5), whereby the objections filed by the petitioner/judgment debtor under Section 47 CPC in execution petition pursuant to the ex parte judgment and decree dated 28/11/2014 passed by the Court of Civil Judge (Junior Division), Ludhiana, have been dismissed.

A perusal of the impugned order dated 23/10/2019 (Annexure P-5) shows that Civil Suit No. 40142 of 2003 titled as “Rama Rani versus Surinder Kaur” was decreed vide ex parte judgment and decree dated 28/11/2014 for recovery of Rs. 6,40,000/- along with future interest at the rate of 9% per annum from the date of filing of the suit till decision of the

case and also for simple interest @ 6% per annum from the date of decision till the actual realization thereof.

The main objection taken by the petitioner/judgment debtor was that the suit was decreed ex parte and no proper opportunity of being heard was provided to her. A perusal of the impugned order shows that when the petitioner/judgment debtor came to know with regard to the ex parte judgment and decree dated 28/11/2014, she filed an application under Order 9 Rule 13 read with Section 151 CPC for setting aside the aforesaid judgment and decree passed by the court of Ms Karandeep Kaur, CJJD Ludhiana but the same was dismissed vide order dated 17/09/2018 passed by Civil Judge (JD), Ludhiana.

The next objection taken by the petitioner/judgement debtor was that the civil court at Ludhiana had no jurisdiction to entertain the suit and no cause of action accrued to the decree holder to file the execution. In this regard, it was submitted that the judgment and decree dated 28/11/2014 has not attained finality as the petitioner/judgment debtor has already filed an appeal bearing CM No. 1087 of 2018 against the order dated 17/09/2018, whereby, the application under Order 9 Rule 13 CPC was dismissed, as the matter was sub judice before a court and until and unless the matter is completely decided by the competent court of law, no decree could have been executed through the process of court.

In paragraph 11 of the impugned order, it has been observed that Avtar Singh had earlier filed third party objection in the aforesaid execution petition, which was disposed of by the order dated 07/09/2016. Avtar Singh was the husband of Surinder Kaur petitioner/judgment. It was further observed that the petitioner/judgment debtor Surinder Kaur had filed written

statement in the civil suit No. 40142 of 2013 and thereafter was proceeded against ex parte and hence her objection that she was never given any opportunity of hearing was a misstatement. Since the suit had been decreed, the objections of the judgment debtor was rightly dismissed vide order dated 23/10/2019. Keeping in view that the suit had been decreed for only earnest money and moreover, since the year 2014 till the year 2019, the matter was being unnecessarily prolonged on one pretext or the other by filing third party objection, the present objections were rightly dismissed being merit less.

In view of all that has been discussed above no ground is made out to interfere in the order dated 23/10/2019 passed by the Civil Judge (Junior Division) Ludhiana, hence, the present revision petition is hereby dismissed.

December 13, 2019
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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No