

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 1952 of 2020 (O&M)
Date of decision : July 13, 2020

Ramesh Kumar

....Petitioner

versus

Raj Kumar

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. AK Khunger, Advocate, for the petitioner

None for the respondent

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

In a suit for recovery instituted by present respondent Raj Kumar against the present revisionist Ramesh Kumar, the court of learned Civil Judge (Junior Division), Abohar vide judgment decree dated 4.5.2016 decreed the suit of the plaintiff for recovery of Rs 3 lacs along with costs and interest @ 9% per annum from the date of advancement of loan till the date of decree and @ 6% per annum

from the date of decree till its realization. Thereafter the plaintiff decree holder filed execution application and in which an application for issuing warrants of attachment of the salary of the decree holder present revisionist was also moved. The court of learned Civil Judge (Junior Division), Abohar through impugned order dated 6.9.2019, Annexure P/2 issued warrants of attachment of the salary of the JD who happens to be a government employee in the department of Animal Husbandry, Ferozepur posted in Civil Veterinary Hospital, Khuian Sarwar, now District Fazilka.

Aggrieved over this, the JD has come up in this revision. Inspite of due notice and intimation, none appeared for the respondent.

Heard counsel for the petitioner and perused the records.

Section 60 of Civil Procedure Code deals with attachment and sale in execution of a decree. The same is reproduced as follows:-

60. Property liable to attachment and sale in execution of decree:—

(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or

other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf: Provided that the following particulars shall not be liable to such attachment or sale, namely:—

- (a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their

enjoyment) belonging to [an agriculturist or a labourer of a domestic servant] and occupied by him ;

(d) books of account ;

(e) a mere right to sue for damages ;

(f) any right of personal service ;

(g) stipends and gratuities allowed to pensioners of the Government [or of a local authority or of any other employer], or payable out of any service family pension fund notified in the Official Gazette by [the Central Government or the State Government] in this behalf, and political pensions;

(h) the wages of labourers and domestic servants, whether payable in money or in kind;

(i) salary to the extent of the first [one thousand rupees] and two third of the remainder] [in execution of any decree other than a decree for maintenance]:

[Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty-four months, be finally exempt from

attachment in execution of that decree.

Therefore, the total attachment of the salary of the revisionist in execution of money decree is highly uncalled for. The law lays down that only upto the extent of 1/3rd of the salary, attachment orders could be issued. The same has been provided with a definite purpose to prevent vagrancy and destituteness. The learned court below lost sight of these provisions and grossly fell into an error by ordering total attachment of the salary of the revisionist/JD and therefore, the same renders the order under assail to be highly illegal, unwarranted in law and therefore, needs to be set aside to that extent. The executing court to proceed ahead into the matter keeping in mind the provisions of Section 60 CPC. The present revision petition stands disposed of.

July 13, 2020
'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No