

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

CRM-M-7100-2021

Date of decision-15.02.2021

Budh Ram

...Petitioner

Vs.

Neeraj Devi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.K.Bhatti, Advocate for the petitioner.

MANOJ BAJAJ, J. (Oral)

This petition has been filed under Section 482 Cr.P.C to challenge the order dated 13.02.2019 passed by Family Court, Jalandhar whereby the bank account of petitioner was attached for non-payment of the arrears of maintenance to his wife and daughter (Respondent Nos.1 and 2). Further, it has been prayed that the E-auction of the house scheduled for 15.02.2021 pursuant to advertisement by Bank of Baroda, Jalandhar be put in abeyance as he failed to clear the loan installments because of attachment of his account.

Learned counsel for the petitioner has contended that by way of the impugned order dated 13.02.2019 (Annexure P-4), the bank account of the petitioner has been attached without specifying the amount of arrears of maintenance awarded to the respondent and despite the statement of the Deputy Manager of the Bank that the amount of attachment is not mentioned in the order, the needful has not been done though the Court had adjourned the case for the said purpose. According to him, no such amount has been

specified till date. He further submits that the petitioner retired from Army but is unable to get his pension, whereas his wife and daughter are still residing with him.

Mr.D.K.Bhatti, learned counsel has vehemently argued that as a consequence of the attachment of his saving accounts, the petitioner failed to return the loan amount obtained by him from Bank of Baroda and the creditor is recovering the debt by putting his house on sale by way of E-Auction scheduled for 15.02.2021. It is prayed that the said impugned order dated 13.02.2019 be set aside and the auction be deferred.

During the course of hearing, it is not disputed by learned counsel that his application for releasing the account from attachment is pending adjudication before the Family Court, Jalandhar and is yet to be adjudicated.

After hearing learned counsel for the petitioner, this Court finds that the two issues raised by the petitioner in the petition have been wrongly clubbed. The challenge to the impugned order dated 13.02.2019 (Annexure P-4) relates to the proceedings before the Family Court initiated against him by his wife and daughter by way of a petition under Section 125 Cr.P.C for maintenance. The Family Court vide its order dated 26.02.2015 (Annexure P-1) awarded maintenance of Rs.3,000/- per month, each to the applicants, however, till date the petitioner has neither challenged the said order nor made the payment of maintenance. Apparently, the Family Court was left with no option, but to proceed with the execution and impugned order dated 13.02.2019 was passed.

Since, the application of the petitioner for releasing his account

from attachment is already pending adjudication before the Family Court, therefore, this Court does not find any reason to interfere with the impugned order.

So far as the issue of auction of the house of the petitioner is concerned, the remedy adopted by the petitioner is misplaced. A perusal of the sale notice published for E-Auction (Annexure P-8) reveals that respondent No.4 (Bank of Baroda) initiated the recovery proceedings to recover the dues as on 21.06.2012 and the other charges/interest, whereas account was attached subsequently on 13.02.2019. The stand of the petitioner that as a result of attachment of his account, he failed to pay the loan installment is apparently incorrect. Besides, the Bank initiated the recovery proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and therefore, the challenge to the auction by the debtor by way of present petition under Section 482 Cr.P.C is not maintainable.

In view of the above, this Court does not find any merit in the petition and the same is dismissed.

(MANOJ BAJAJ)
JUDGE

15.02.2021

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No