

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

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**CR-1437 of 2015 (O&M)
Date of decision: 28.09.2022**

Harmail Singh

..Petitioner

Versus

Kulvir Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunny K. Singla, Advocate, for the petitioner.
Mr. Vikas Mehsempuri, Advocate, for the respondent.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is a Judgment Debtor. A suit for recovery of Rs.85,000/- along with interest @ 12% per annum on the principal amount from the date of pronote till the date of filing of the suit as well as pendente lite interest @ 12% per annum and future interest @ 6% per annum from the date of decree till its realization was passed on 28.11.2008.

In the execution application filed by the Decree Holder, the petitioner (JD) filed objections claiming that this is his only residential house. The Executing Court has dismissed the objection while observing that in fact, the petitioner has two houses, one inherited by him and his brother from late Sh. Saroop Singh (his father) and another house owned and possessed by the petitioner himself.

The learned counsel representing the petitioner contends that the Executing court has passed the order without considering that the house inherited from his father is mortgaged with the Punjab Government vide mortgage deed dated 20.03.1989. he further submits that the petitioner and his brother only have two rooms including the house which has been inherited by him from his deceased father.

On a careful reading of the mortgage deed, it is evident that the Punjab Government had advanced a loan of Rs.1000/- on 20.03.1989. There is no material to prove that the aforesaid loan has not been re-paid. Moreover, the property under mortgage can also be sold.

As per the material available on the record, there is no absolute clarity about the number of houses owned by the petitioner and who has the possession thereof.

Keeping in view the aforesaid facts, the revision petition is disposed of with liberty to the petitioner to file appropriate application before the Executing court to prove that he has only one house, in which he along with his family, is residing. If such application is filed, the Executing Court shall decide the same in accordance with law.

All the pending miscellaneous applications, if any, are also disposed of.

September 28, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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