

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

CR-229-2022

Date of Decision: 03.02.2022

AMAN GARG

...Petitioner

Versus

MOHIT GUPTA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. PawanAttri, Advocate
for the petitioner.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside the impugned order dated 07.10.2021 (Annexure P-6) passed by learned Additional Civil Judge (Senior Division), Pehowa, whereby, the application moved by the petitioner under Order 38 Rule 5 of the CPC seeking attachment of property of defendant/respondent No.2 was dismissed.

2. Learned counsel for the petitioner submits that the car which was borrowed by the respondents from the petitioner, was being driven by respondent No.1 in rash/negligent manner and the same struck against and caused damaged to various shops. The shop-owners, whose shops got damaged, demanded compensation for repairing them for which the petitioner incurred an amount of Rs.70,000/-. When the petitioner asked the respondents to pay for the loss incurred and for the damage caused to the petitioner's car to the tune of Rs.15 lakh, they refused. Therefore, he filed a suit for damages against the respondents. When the petitioner came to know

that defendant/respondent No.2 is planning to dispose of her property, he filed an application under Order 38 Rule 5 of the CPC seeking attachment of the property of respondent No.2 in order to restrain the respondents from alienating their property. It was dismissed by the learned trial Court. Hence, the revision petition.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. The order assailed herein is premised, *inter alia*, on the following reasoning:

“5. Thus, the defendant no.1 appears to have been driving the car of the plaintiff which met with the accident. However, the present application under Order 38 Rule 5 CPC has been filed against defendant no.2 who happens to be the mother of defendant no.1. The plaintiff is seeking attachment of property of defendant no.2, whereas there is an admission of defendant no.1 by way of DDR entry that he was driving the car of the plaintiff when it met with an accident. Defendant no.2 has denied her presence in the car as per her written statement.

6. Hence, from the facts and circumstances of the present case, there are no grounds for attachment of property of defendant no.2 under Order 38 Rule 5 CPC. Accordingly, application in hand is hereby dismissed. Nothing in this order shall be construed as a reflection upon the merits of this case.”

5. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction of this Court.

6. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement.

7. Dismissed.

February 03, 2022
gurpreet

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No