

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

243

**CR No. 1664 of 2019
Date of Decision : 22.11.2022**

Surender Singh

..... Petitioner

Versus

Richpal

..... Respondent

CORAM : HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present : Mr. Sandeep K. Sharma, Advocate, for the petitioner

Mr. Deepak Girotra, Advocate, for the respondent

TRIBHUVAN DAHIYA, J.

1. This revision petition has been filed under Article 227 of the Constitution of India impugning the order dated 3.1.2019 passed by the Executing Court dismissing an application for attachment of property owned by the respondent/judgment debtor that was transferred by him by way of lease deed dated 20.2.2014 in favour of his son just before passing of the decree in question on 1.5.2014.

2. Learned counsel for the petitioner contends that the trial Court has wrongly dismissed the application ignoring the provisions of Section 53 of the Transfer of Property Act, 1882 (for short 'the Act'), which are to the effect *that every transfer of immoveable property made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed.*

3. A perusal of the impugned order shows that the application has been dismissed by the Executing Court without adverting to provisions of

Section 53 of the Act, which apparently have a bearing on the issue raised in the application moved by the petitioner/decreed holder.

4. In view of the aforesaid, it is deemed appropriate to set aside the impugned order dated 3.1.2019 and remand the matter to the Executing Court for afresh adjudication by taking into consideration provisions of Section 53 of the Act and all other relevant material.

5. The parties would be at liberty to take all pleas before the Executing Court. They are directed to appear before the Court on 19.12.2022.

6. Disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

22.11.2022

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No