

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

CR No.1508 of 2022 (O&M)

Date of Decision: 02.05.2022

Mehal Singh

.....Revisionist-petitioner.

Versus

The New India Assurance Company Limited

.....Respondent.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Saransh Sabharwal, Advocate
 for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J.(Oral)

By way of the instant revision petition, the petitioner-Judgment Debtor assails the order dated 16.05.2019 (Annexure P-8) passed by the executing court for the issuance of the recovery-certificate against his property and also the order dated 15.12.2021 (Annexure P-10) whereby the said Court has issued the warrant of attachment in respect of his property.

I have heard learned counsel for the petitioner in the present revision petition and have also perused the file carefully.

Learned counsel for the petitioner contends that the property, as ordered to be attached vide Annexure P-10, is agricultural land and the petitioner as well as his family members are dependent upon the same for their livelihood and except this property, the petitioner does not own any

other property and he was not given any opportunity to prefer the objection petition in the execution proceedings before passing both the impugned orders and therefore, the same are not legally sustainable and deserve to be set-aside.

However, the afore-raised contentions do not hold much water because vide the Award dated 11.10.2017 (Annexure P-2), the concerned MAC Tribunal allowed the claim petition filed by the dependents of deceased Kulbir Singh against the petitioner and the present respondent and awarded the compensation to the tune of Rs.14,71,000/-, along-with interest thereon @ 6% per annum and directed the respondent-insurance company to deposit the award amount within one month while observing that it was entitled to recover the same from respondent driver-owner of the offending vehicle, i.e the present petitioner.

It is pertinent to mention here that the petitioner had been proceeded against *ex-parte* in the above-said claim petition. Though, he had moved application Annexure P-6 under Order 9 Rule 13 CPC with a prayer for setting aside the said Award passed against him *ex-parte* but as specifically mentioned in para No.10 of this petition itself, the afore-said application has already been withdrawn. Thus, it is explicit that the above-said Award, as passed against the petitioner as well as the respondent-insurance company, still holds good in the eyes of law and is, therefore, executable. The respondent insurance company has preferred the execution petition to recover the award amount from the petitioner wherein both the impugned orders have been passed.

The plea taken by the petitioner to the effect that he was not afforded any opportunity to file the objection petition before passing these orders, is devoid of any merit because vide the order dated 13.01.2021 (Annexure P-9), the petitioner-JD, who had been proceeded against *ex-parte* during the execution proceedings also, was allowed to join these proceedings and the execution petition was adjourned for filing of the reply, if any, by him and also for making the payment and in the impugned order Annexure P-10 passed on 15.12.2021 for the issuance of the warrant of attachment, it has categorically been mentioned that the payment had not been made. In these circumstances, it does not lie in the mouth of the petitioner to raise the afore-discussed plea.

As a sequel to the fore-going discussion, it follows that both the impugned orders do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

May 02, 2022

Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*