

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

213

CR-1653-2022

Decided on : 06.06.2022

Satish Kumar @ Satish Lal

... Petitioner(s)

Versus

Reeta Devi and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Balbir Singh Jaswal, Advocate
for the petitioner(s).

Mr. Satpal Dhamija, Advocate
for respondent(s) No.1 to 4.

MANJARI NEHRU KAUL, J. (Oral)

By way of present petition filed under Article 227 of the Constitution of India, the petitioner (judgment debtor) is seeking quashing of the impugned order dated 18.04.2022 (Annexure P-11), passed by the Executing Court, Hoshiarpur, vide which the Executing Court ordered the auction of the property of the petitioner being illegal, as the same has been passed *ex-parte* without hearing the petitioner, even though, the application filed by the petitioner for setting aside the *ex-parte* order is still pending, wherein, no reply has been filed by the respondents (decree holders).

Learned counsel for the petitioner (judgment debtor) submits that an application for setting aside of the order dated 12.11.2021, whereby, the petitioner was proceeded against *ex-parte*, was moved by him on 02nd February, 2022. In the said application notice of motion was issued and the matter was then adjourned to 18th April, 2022, for filing of reply by the respondents (decree holders). However, since no reply was filed by the

respondents, the matter was again adjourned to 04th July, 2022. On 18th April, 2022, the executing Court illegally directed the auction of the attached property of the petitioner without deciding the application for setting aside of the *ex-parte* order and hence, auction could not have been ordered by the Court concerned without giving an opportunity of being heard to the petitioner. Learned counsel further submits that even otherwise the total value of the attached property does not exceed Rs.2.00 to Rs.3.00 lakhs, therefore, no useful purpose would be served in selling the said property by way of an auction.

Learned counsel further submits that petitioner is ready and willing to make payment of the entire Rs.14.00 lakhs, by way of installments, if he is granted reasonable time.

Per contra, learned counsel for the respondents while controverting the submissions made by the counsel opposite, submits that the respondents/decreed-holders were awarded the compensation six years back i.e. in the year 2016, however, till date, the petitioner had not paid even a single penny to satisfy the compensation awarded by the learned Motor Accident Claims Tribunal, Hoshiarpur (MACT). Learned counsel, therefore, submits that the petitioner has no intentions of making any payment to the respondents and has just been engaging in dilatory tactics to avoid his liability, which is evident from the fact that he was proceeded against *ex-parte* by the executing Court, on his failure to put in an appearance.

I have heard learned counsel for the parties and perused the relevant material on record.

Admittedly, the award of compensation was passed by the

learned MACT, Hoshiarpur, on 01st September, 2016 and the petitioner has not made any payment towards the satisfaction of the award. The petitioner impugned the award dated 01.09.2016 by way of an appeal i.e. FAO-2233-2017, in this Court, however, at the same time, he failed to appear before the executing Court, as a result of which, he was proceeded against *ex-parte* vide impugned order dated 12.11.2021. It would also be pertinent to notice that the petitioner chose to appear before the executing Court to set-aside the order dated 12.11.2021, vide which he was proceeded against *ex-parte*, only after his property was ordered to be auctioned. Hence, it is apparent that the petitioner is trying to evade his liability by unduly prolonging the executing proceedings, thereby, depriving the respondents of the fruits of the award. In the circumstances, this Court would not allow the execution proceedings to become a second round of litigation. It's been almost six years, since the passing of the award by the learned MACT and any further delay in realization of the fruits of the award would only add to the misery of the respondents.

As a sequel to the above, this Court does not find any merit in the instant revision petition and accordingly, the same stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

June 06, 2022

J.Ram

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