

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

CR-2126-2022(O&M)

Date of decision:-2.12.2022

Gopal @ Gopal Sharma

...Petitioner

Versus

Madan Kumar Jindal

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sandeep Yadav, Advocate
for the petitioner.

Mr.Saurabh Gulia, Advocate
for the respondent.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiff Madan Kumar Jindal had filed a suit for recovery against defendants Gopal alias Gopal Sharma and another; that Civil Suit bearing CIS No.270 of 2015 was decreed by Additional Civil Judge (Sr.Divn.), Ganaur on 27.2.2017 and a decree for recovery of Rs.4,24,710/- along with pendente lite and future interest @ 8% per annum was passed in favour of the plaintiff and against defendant No.1 and defendant No.1 was directed to pay the amount to plaintiff within a period of one month, failing which, the plaintiff would be entitled to recover the same in accordance with law.

2. The decree-holder/plaintiff then filed an execution application before the trial Court, notice of which was given to defendant/JD, who put in appearance and filed various objections. Those were dismissed by the Executing Court vide order dated 4.5.2022. The JD had raised a plea there that the decree holder wants his shop measuring 30 square yards situated at Mauja Baraut, Tehsil Ganaur, District Sonapat in the name of 'Laxmi Bartan Bhandar' to be attached and sold for recovery of decretal amount but the said shop is not free from encumbrances, whereas JD had agricultural land, which does not have any encumbrances, therefore the agricultural land be got attached and sold, rather than shop of JD. His such plea was rejected by the Executing Court observing that he had not placed on record any document to show that the shop proposed to be attached and sold to recover the dues of decretal amount to the plaintiff is not free from encumbrances and furthermore, it is discretion of the Court to decide how the decretal amount is to be recovered from the JD and if JD fails to make the payment, which of the property/belonging to be attached and sold for realization of dues.

3. This order dated 4.5.2022 has left the JD aggrieved and he has filed the present revision petition with the similar request that instead of his shop, which is only source of livelihood for him, his agricultural land be got attached and sold to facilitate the recovery of dues of decretal amount from him.

4. Notice of that revision petition was given respondent, who put in appearance through counsel counsel.

5. I have heard learned counsel for the parties besides going

through the record and I find that the revision petition has no legs to stand.

6. The revisionist, who is JD in the execution petition owes substantial money to the decree holder, since he did not make the payment, the decree-holder had to file an execution petition against him in the Court, which is pending. Instead of making the payment, the attempt of the JD, who is revisionist before this Court seems to be to stretch the proceedings endlessly. Already more than five years have elapsed from the date of passing of decree against the JD but he has not made any payment. Now he is dictating terms to the Executing Court as to which of his property should be attached and which be released. If for a moment request of the revisionist JD is kept in view, this revisionist JD can very well sell his agricultural land and make payment to the decree holder instead of saying that his shop be not attached and sold and rather his agricultural land be put to sale after attachment. The revisionist JD must understand that auction in such type of cases fetch much less price than the prevalent market rate. The revisionist is going to be looser on that account also, which perhaps he is not realizing.

7. There is absolutely no scope for interference with the order passed by the Executing Court, which is detailed and well reasoned.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

2.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No