

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

106

CR-1876-2021

Date of decision: 08.09.2022

Santosh

.....Petitioner

Versus

Ravi Saini

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Karunesh Kaushal, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 19.08.2021 (Annexure P-2) passed by learned Motor Accidents Claims Tribunal, Sirsa (for short, 'the Tribunal') whereby the execution petition of the petitioner has been transferred to the Court of District Judge, Sri Ganga Nagar (Rajasthan).

Learned counsel for the petitioner submits that the impugned order is patently erroneous and contrary to the settled law. He submits that the petitioner filed an application for execution of award dated 31.07.2021 before learned Tribunal, however, on presentation on 19.08.2021, the case was transferred to the Court of District Judge, Sri Ganga Nagar (Rajasthan). Learned counsel submits that the learned Tribunal erred in passing the impugned order without issuing summons to the respondent and a request which was made by the petitioner for not transferring the case to Rajasthan was also ignored. Learned counsel submits that the learned Tribunal below erred in arriving at its own assumption that the respondent possessed

properties at Sri Ganga Nagar without any proof or evidence having been placed on record in the said regard. It has been submitted that since the petitioner is an old widow, it would be inconvenient for her to pursue the case at Sri Ganga Nagar (Rajasthan) and hence the impugned order be set aside.

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

A perusal of the execution application (Annexure P-1) reveals that the petitioner had sought assistance of the learned Tribunal through attachment and sale of the properties of the respondent and also for sentencing him to civil imprisonment. It is also a matter of record that the respondent is a resident of Sri Ganga Nagar and he was proceeded against ex-parte in the claim petition.

It would be relevant to reproduce Section 39(4) of the Code of Civil Procedure, 1908, which reads as under:-

"39. Transfer of decree.-

XXXX XXXX XXXX
XXXX XXXX XXXX

(4) Nothing in this section shall be deemed to authorise the Court which passed a decree to execute such decree against any person or property outside the local limits of its jurisdiction.

A bare perusal of the above reproduced provisions of law leave no manner of doubt that since the respondent is residing beyond the territorial jurisdiction of the learned Tribunal, the award could not have been possibly executed by it. Hence, the learned Tribunal rightly transferred the execution application to the District Judge at Sri Ganga Nagar for due execution of the award dated 31.07.2021.

As a sequel to the above, the instant revision petition being devoid of any merit is dismissed in *limine*.

08.09.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No