

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

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**Civil Revision No.5370 of 2022 (O&M)
Date of Decision: 02nd December, 2022**

M/s Shree Nangal Rice Mills Gurdaspur & Others

...Revisionists-Petitioners

Versus

M/s Parminder Singh @ Company & Another

...Respondents

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

Present :- Ms. Himani Kapila, Advocate,
for the revisionists-petitioners.

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MEENAKSHI I. MEHTA, J.(ORAL)

CM No.16783-CII of 2022

This application has been moved on behalf of the applicants-petitioners with a prayer for taking the copies of the orders, as passed by the Court below on 18.10.2022 in the application filed under Order 9 Rule 13 CPC and also in the Execution Application No.128/2019, on the record as Annexures P-8 and P-9 respectively.

Heard.

Keeping in view the reasons as mentioned in the present application, the same is hereby allowed and Annexures P-8 and P-9 are taken on the record.

CR No.5370 of 2022

By way of this petition, the petitioners-Judgment Debtors (for short 'the JDs') have assailed the order dated 23.08.2022 (Annexure P-6)

passed by learned Civil Judge (Junior Division), Patti (for short 'the Executing Court'), whereby the Objections filed by them in the aforementioned Execution Application, have been dismissed.

2. As per the brief factual-matrix, culminating in the filing of the present revision petition, respondents No.1 and 2-Decree-Holders (for short 'the DHs') had filed a Civil Suit against the JDs (defendants No.1 to 3) and proforma-respondents No. 3 & 4 (defendants No.5 & 4), for seeking the decree for the recovery of an amount of Rs.5,80,000/-. The JDs were proceeded against *ex-parte* in the said Suit and the same had been decreed vide the judgment and decree dated 21.01.2019. Thereafter, the DHs filed the above-said Execution Application and the JDs preferred the Objections therein which have been dismissed by the Executing Court, vide the impugned order.

3. I have heard learned counsel for the petitioners-JDs, at the preliminary stage, in the instant revision petition and have also gone through the file carefully.

4. Learned counsel for the petitioners-JDs contends that the JDs have already paid an amount of Rs.4,29,196/- to the DHs and DH No.2 had duly sworn affidavit Annexure P-2 to acknowledge the said payment but however, the Executing Court has not taken this fact into consideration and moreover, the order qua proceeding *ex-parte* against the JDs in the afore-said Suit, is patently illegal and the Executing Court has overlooked this aspect also, while passing the impugned order and in these circumstances, the said order is not legally sustainable and deserves to be set aside.

5. However, the afore-raised contentions are not tenable because as regards the payment of the above-said amount by the JDs to the DHs as mentioned in the affidavit Annexure P-2, the Executing Court has rightly observed that the Objections in this regard were not maintainable before it in view of the settled proposition of law to the effect that the Executing Court could not go beyond the decree passed by the competent Court.

6. So far as the contention regarding the legality of the order as passed by the trial Court for proceeding *ex-parte* against the JDs in the said Civil Suit, is concerned, it is pertinent to mention here that the Objections in respect thereof, would not be maintainable before the Executing Court and rather, the JDs have already filed the application under Order 9 Rule 13 CPC to lay challenge to the same.

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

02.12.2022
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(MEENAKSHI I. MEHTA)
JUDGE

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