

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-322-2019(O&M)
Date of decision: 01.12.2023

Manjeet Singh

....Petitioner

Versus

Sukhwinder Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Jai Bhagwan, Advocate for the petitioner.

Mr. Mukesh Yadav, Advocate for respondent No.1.

Mr. Deepak Goyal and Mr. Dashim Garg, Advocate
for respondent No.2.

Ms. Jagriti Sangwan, Advocate for
Dr. Anand K.Bishnoi, Advocate for respondent No.3.

AMARJOT BHATTI, J.

CM-3027-CII-2019

This is an application u/s 151 C.P.C. for placing on record
Annexures P4 to P-7.

For the reasons stated in the application, the same is allowed.
The accompanying documents as Annexures P-4 to P-7 are taken on
record.

CM stands disposed of.

CR-322-2019(O&M)

1. The petitioner – Manjeet Singh has filed the present civil
revision under Article 227 of the Constitution of India for setting aside the

order dated 26.11.2018 (Annexure P-3) passed by learned Civil Judge (Junior Division), Dhuri whereby the objections filed by the petitioner has been disposed of with the direction that share of the objector-Manjeet Singh to the extent of 201/622 share which is under attachment in the execution application is liable to put in auction, alleging that the impugned order is illegal, arbitrary and without appreciating the facts and circumstances of the case.

2. Learned counsel for the petitioner argued that Sukhwinder Singh-respondent No.1 filed a suit for recovery of Rs.9 lacs against Gurdev Singh predecessor in interest of the petitioner and respondents No.2 and 3 which was decreed by the trial Court vide judgment and decree dated 04.07.2013. The respondent No.1 filed execution application under Order 21 Rule 11 and 53 of CPC for the execution of decree against judgment debtor-Gurdev Singh. During the pendency of execution, Gurdev Singh expired. The present petitioner filed objection petition under Section 47 of CPC which was allowed vide order dated 01.03.2018 passed by learned Additional District Judge, Sangrur and the property of the applicant was released from attachment. The present petitioner in the said objections alleged that on the application of decree holder, the property of present petitioner was attached to the extent of 400/622 share out of land measuring 31 Bighas 2 Biswas by relying upon jamabandi for the year 2007-08. The execution was filed in the year 2013 and at that relevant time, the relevant jamabandi was for the year 2012-13. The objection petition filed by Manjeet Singh under Section 47 of CPC is Annexure P-1. The said objection petition was contested by respondent No.1. The reply

to the said objection petition is Annexure P-2. However, without appreciating the facts and circumstances of the case and without framing issues on the objection petition, the learned Executing Court dismissed the objections by passing impugned order dated 26.11.2018 which is Annexure P-3. It is pointed out that the learned Executing Court was required to consider the land as per latest jamabandi. The decree holder got attached the property of petitioners i.e. 400/622 share out of land measuring 31 Bighas 2 Biswas in village Issi wrongly and illegally. The judgment debtor-Gurdev Singh was co-owner to the extent of 602/622 share in the land measuring 31 Bighas 2 Biswas in khata No.376/625 and sole owner of land measuring 19 Bighas 18 Biswas in khata No.392/644. The judgment debtor-Gurdev Singh was also a co-owner to the extent of 1/3 share in the land measuring 30 Bighas in khata no.159/311. Therefore, Gurdev Singh was owner of 60 Bighas of land situated in the revenue estate of village Issi. Manjeet Singh and Bhupinder Singh sons of Gurdev Singh were also co-owners to the extent of 1/3 share each, in the land measuring 30 Bighas in khata No.159/311. The judgment debtor – Gurdev Singh had exchanged land measuring 10 Bighas with the property of objector vide exchange deed dated 12.09.2008 and Gurdev Singh received 10 Bighas of land from the share of objector/petitioner. On the basis of said exchange deed, the mutation No.4245 was sanctioned on 17.07.2009. Gurdev Singh remained owner in possession to the extent of 402/622 share in 31 Bighas of land. The learned Executing Court failed to consider that the judgment debtor-Gurdev Singh had transferred 19 Bighas 18 Biswas of land and 20 Bighas, 02 Biswas of land total land measuring 31 Bighas 2 Biswas in favour of the present objector and his brother Rajinder Singh

vide registered transfer deed dated 24.09.2009. The suit for recovery was filed on 28.09.2010, after the execution of said transfer deed. Therefore, the property belonging to the present petitioner/objector has been wrongly attached. During the pendency of the suit Gurdev Singh had also transferred 16 Bighas 13 Biswas and 13 Bishwases being 5/9 share in the name of Devender Kaur alias Rani wife of Baljit Singh and mutation No.4294 was sanctioned. Gurdev Singh also transferred 3 Bighas 6 Biswas and 13 Bishwases being 1/9 share vide transfer deed dated 10.11.2010 registered on 11.11.2010 in favour of Bhupinder Singh. In order to dispose the matter in controversy the Executing Court was required to frame issues so that the present petitioner got opportunity to prove the facts mentioned in the objections. The property of his brother who also inherited property from their father has not been attached. In this way the present petitioner has suffered great prejudice. It is prayed that the present revision petition may be accepted and the impugned order dated 26.11.2018 may kindly be set aside.

3. On the other hand, learned counsel for the respondent No.1 raised the issue that prior to this similar objections were filed which have been decided up to the Hon'ble High Court. He has placed on record copy of order dated 28.08.2017 passed in CR-2084-2016 vide which the civil revision was declined upholding the order dated 22.01.2016 passed by the Executing Court. Time and again similar objections have been filed only to delay the execution proceedings which are pending since 2013. The impugned order dated 26.11.2018 does not suffer from any illegality or irregularity. The Executing Court duly considered the land which came to the share of present objector by way of exchange deed dated 12.09.2008

and the execution proceedings are initiated only to the extent of 201/622 share which the present petitioner received from his father Gurdev Singh vide transfer deed dated 24.09.2009. Therefore, the revenue record and the facts and circumstances of the case were rightly considered by the Executing Court while disposing of the objections by passing impugned order dated 26.11.2018. It is prayed that the civil revision preferred by the present petitioner may kindly be dismissed.

4. I have considered the arguments and have gone through the record carefully. It is matter of record that Sukhwinder Singh-respondent No.1/deed holder filed execution application No.92 dated 08.08.2013 on the basis of judgment and decree dated 04.07.2013 against Gurdev Singh in a suit for recovery of Rs.9 lacs along with interest. During the pendency of the execution application, Gurdev Singh expired and his sons namely Bhupinder Singh, Manjeet Singh and Rajinder Singh were impleaded as legal heirs. Therefore, in the present execution application the recovery is to be effected from the property of Gurdev Singh which was inherited by his legal heirs i.e. the sons who are impleaded as party in the execution. It is not the case that the objections are filed for the first time. The perusal of record shows that earlier the objections were filed by the legal heirs of judgment debtor-Gurdev Singh which were declined vide order dated 22.01.2016 and feeling aggrieved of this order the legal heirs had filed Civil Revision No.2084 of 2016 which was also dismissed vide order dated 28.08.2017.

The learned counsel for the petitioner has placed on record copy of judgment dated 01.03.2018 in CAO No.45 of 06.12.2017 which was an appeal against order dated 06.11.2017 in the aforesaid execution

application regarding the objections filed under Order 21 Rule 58 of CPC. The appeal preferred against the order dated 06.11.2017 was disposed off vide judgment dated 01.03.2018 which is Annexure P-6. There is copy of another order dated 30.05.2018 Annexure P-7 which was passed on the objections filed by Rajinder Singh. The said objections were accepted and it was held that only share of Manjeet Singh S/o Gurdev Singh to the extent of 402/622 share was attached in the execution application. Thereafter, the present petitioner-Manjeet Singh again filed objections under Section 47 of CPC referring the revenue record vide which the property was transferred from time to time. The entire case of the present petitioner is based on revenue record which is duly considered by the Executing Court while passing the impugned order dated 26.11.2018. Earlier, the property was attached to the extent of 401/622 share. Later on by passing the impugned order the share of Manjeet Singh-present petitioner to the extent of 200/622 share was released from attachment, considering the exchange deed dated 12.09.2008 and the remaining share of objector Manjeet Singh to the extent of 201/622 share which was already attached in the execution application was put in auction by giving specific finding that it was the land which was received by the present petitioner from his father Gurdev Singh on the basis of transfer deed dated 24.09.2009. The transfer deed executed by the present petitioner dated 08.04.2016 in favour of his son Gurdeep Singh during the pendency of execution was also ignored as the said document was executed to defeat the recovery rights of decree holder.

Therefore, considering the detailed order passed by the Executing Court dated 26.11.2018, it is clear that all the aspects of the

present case and the objections which are raised from time to time have been duly considered. Therefore, I do not find any illegality or irregularity committed by the Executing Court in passing the impugned order dated 26.11.2018 and the same is accordingly upheld and the civil revision preferred by the present petitioner is accordingly declined.

Pending application(s), if any, shall also stands disposed of.

01.12.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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