

**In the High Court of Punjab and Haryana, at Chandigarh****Civil Revision No. 7659 of 2018****Date of Decision: 16.11.2023**

Surinder Singh

... Petitioner(s)

Versus

Surinder Kaur (Deceased) through her Legal Representatives

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**Present: Mr. Amandeep Saini, Advocate  
for the petitioner(s).Mr. Parvinder Singh, Advocate  
for the respondents.**Anil Kshetarpal, J.**

1. The petitioner herein is a judgment debtor. In a suit for possession by way of specific performance of agreement to sell, the trial Court has granted an alternative relief of recovery of ₹6,65,000/-. The aforesaid decree has become final. In order to recover the aforesaid amount, the residential house which was the suit property is sought to be attached. The petitioner claims that the aforesaid house being the only residential house is not liable to be attached under Section 60(1)(ccc) of the Code of Civil Procedure, 1908. The Executing Court has held that the recovery is on account of the charge created on the house property, therefore, it is not exempted from attachment.

2. In fact, in *Chaman Devi v. Amar Singh and Another (Civil Revision No. 108 of 2022, decided on 30.08.2022)* and *Rulia Singh v.*

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**Munsha Singh (Civil Revision No. 6329 of 2019)** along with another connected revision petition, an identical issue has been decided on 03.11.2023. After discussing the various judgments passed by the High Court, it has been held as under:-

*“10. It is evident that as per the proviso attached to Section 60(1) (ccc) of the CPC, it is clearly provided that the protection afforded by this clause shall not extend to any property specifically charged with the debt sought to be recovered. However, in the peculiar facts of the present case, the property was specially charged with the debt sought to be recovered because the agreement to mortgage the property was the subject matter of suit for specific performance. Moreover, it is evident from the reading of the agreement and the judgments passed by the Court on 19.08.2014 that not only the residential house but also a shop in front of the house was agreed to be mortgaged. The aforesaid exemption is not applicable to the area of the shop, which is separate. In fact, this aspect of the matter has been clarified by a Full Bench of this Court in **Brij Mohan Lal Vs. Bakshi Ram Etc., AIR 1975 P&H 214.***

*11. On a careful reading of the judgment passed in **Amarjit Kaur’s case (supra)**, it is evident that in that case agreement to sell was found to be executed for the purpose of security and there was no intention to sell/purchase the house. Moreover, in that case some part of the property was not commercial. Hence, the aforesaid judgment is not applicable.*

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12. In **Sikandar Singh's case (supra)**, this Court has held that once the suit is not a simple suit for recovery but a suit for specific performance of sale of the house, the exemption under Section 60(1)(ccc) of the CPC cannot be claimed because the property is itself the subject matter of lien or charge as per the terms of the agreement.

13. Similarly, in **Vikram Singh's case (supra)**, the Court has held that once the property is itself the subject matter of the agreement and a decree for specific performance is sought to be executed, the exemption shall not be applicable.

14. Similar view was taken in **Sher Singh's case (supra)**, **Gurdeep Singh's case (supra)**, **Mahender Kumar's case (supra)** and **Gurdarshan Singh's case (supra)**.

15. Keeping in view the aforesaid consistent line of judgments, this Court does not find any merit in these revision petitions.”

3. The learned counsel representing the parties are *ad idem* that in view of the aforesaid judgments, there is no substance in the present revision petition. Consequently, the present revision petition is dismissed.

**(Anil Kshetarpal)**  
**Judge**

**November 16, 2023**

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No