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

CR-907-2023 (O&M)

Date of decision : 09.02.2023

Gurmukh Singh

... Petitioner

Versus

Karamjit Kaur

.. Respondent

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Nitin Sachdeva, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the order dated 31.05.2022 (Annexure P-4) whereby the Executing Court has dismissed the objections filed by the petitioner in an execution petition preferred by the respondent/wife and the order dated 23.12.2022 (Annexure P-7) whereby the saving bank account No.10950120731 of the petitioner has been directed to be attached.

Learned counsel for the petitioner submits that the petitioner is an ex-serviceman and the retiral benefits including gratuity, provident fund etc. which were paid to him were deposited in his saving account. The monthly pension which he is drawing from the employer is also deposited in his saving account. Therefore, the saving account of the petitioner cannot be attached in view of Section 60(1)(g), (j) and (k) CPC.

Heard.

The respondent/wife has preferred a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and the same was decreed

in her favour on 27.01.2016 (Annexure P-1). The decree has attained finality and the respondent/wife is now seeking its enforcement. The Executing Court has directed the attachment of the saving bank account of the petitioner in execution of the decree.

This Court in CR Nos.1597 and 1614 of 2016, titled as '**Gurcharan Singh versus Saudagar Singh**', decided on 04.03.2016 has held that once the salary is credited in the saving bank account, it loses the character of the salary and the provision of Section 60(1)(i) CPC would not apply. It has relied upon the judgment of the Division Bench of Bombay High Court in the case of **Parlhad Gangadhar Joshi Vs. Mst. Sakhubai 1961 AIR (Bombay) 142** wherein the contention of the husband therein was that the salary which is less than Rs.100/- was liable to be exempted from attachment under Section 60(1) CPC as prevalent at that time was repelled. The operative part of the judgment of the Division Bench of Bombay High Court is reproduced hereunder:-

“....still we are unable to see how the salary which was received by the judgment debtor from the Municipal Committee cannot be taken into account in judging what were his means or capacity to pay.....It seems to us that what clause (i) of the proviso to Section 60(1) prohibits is that the salary qua salary cannot be attached or be brought to sale. In other words, so long as the money is in the hands of the employer as an amount due to the employee, the bar operates as against its attachment or sale. But once the salary is paid to the judgment debtor and it becomes his property, we can see no reason or justification for holding that it would still continue to be unattachable or unsaleable in his hands.....”

At this stage, learned counsel for the petitioner submits that these judgments are distinguishable and not applicable to the instant case as in those

cases, the question of gratuity, pension and other retiral benefits did not arise.

I do not find any merit in the contention of the counsel for the petitioner for the reason that the break up of the amount with regard to gratuity and other retiral benefits which had been paid to the petitioner, has not been set out in the material on record. It is not discernible as to how the petitioner had utilized the gratuity and other retiral benefits and as to whether the amount is under fixed deposits or invested in other schemes or elsewhere. He has not disclosed his financial investments. It is apparent that the petitioner does not have any immovable property and in the absence thereof, the only coercive method to execute the decree would be to attach the saving account. Therefore, the attachment of the saving bank account of the petitioner under the aforementioned facts and circumstances would be justified as it is the only avenue available for execution of the decree.

Consequently, I do not find any merit in this petition which stands dismissed.

Pending application, if any, shall also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

February 09, 2023
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No