

CRR(F)-258 of 2023(O&M)

-1- 2023:PHHC:045116

**In the High Court of Punjab and Haryana at Chandigarh
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Date of Decision: 27.03.2023

(1) CRR(F)-258 of 2023(O&M)

Jagdish Singh

---Petitioner

versus

Satvir Kaur

---Respondent

(1) CRR(F)-264 of 2023(O&M)

Jagdish Singh

---Petitioner

versus

Satvir Kaur

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.Pushpinder Kaushal, Advocate
for the petitioner
Mr. Amrik Singh, Advocate
for the respondent

JAGMOHAN BANSAL, J. (ORAL)

Vakalatnama filed by Mr. Amrik Singh, Advocate, on
behalf of the respondent is taken on record. Registry is directed to tag
the same at an appropriate place.

On 21.02.2023, following order was passed by this Court:-

“The petitioner, through the instant petition is seeking setting aside of order dated 21.01.2023 whereby conditional warrants have been issued against the petitioner for 24.02.2023.

Learned counsel for the petitioner inter alia contends that respondent has filed execution application with respect to maintenance awarded under Section 125 Cr.P.C. The marriage of the petitioner was solemnized with respondent in the year 1987 and at present he is 65 years old. There is no child from this wedlock. The respondent on the earlier occasion filed suit for recovery and Additional Civil Judge (Senior Division), Rupnagar vide order dated 10.12.2019 created charge over six kanal land of the petitioner. The said property is still under attachment. The market value of the property is in between Rs. 30-35 lakh. The petitioner has no objection if said property is put to auction and outstanding dues are recovered. The respondent is concerned with recovery of the maintenance and not arrest of the petitioner. Even otherwise, arrest is last resort whereas executing court is making it first. The arrest of the petitioner would not entail recovery whereas auction of the aforesaid land would fetch sufficient amount to satisfy order of maintenance.

Notice of motion for 27.03.2023.

Process dasti as well.

In the meantime, operation of the impugned orders in both the petitions shall remain stayed. The Family Court is free to put the attached property on auction and make sure recovery of outstanding dues.

The petitioner is at liberty to introduce any buyer so that property may be sold at the earliest.”

Learned counsel for the respondent submits that petitioner has made sham transactions qua property owned by him and respondent despite order of maintenance passed by Family Court, is unable to get maintenance from the petitioner. The petitioner is not disclosing his correct address and avoiding Court proceedings.

Learned counsel for the petitioner, at the outset, submits that civil suit filed by third party with respect to land owned by petitioner stands dismissed. The land which petitioner is pointing out is free from all encumbrances and it can be sold and arrears can be realised. The petitioner would submit his latest residential address to the Family Court and would attend proceedings either in person or through counsel as and when matter is fixed before the Family Court.

I have heard counsel for the parties and perused the record.

Without commenting upon merits of the case, the petitions are disposed of with the following directions:-

1. The petitioner shall furnish his latest residential address to Family Court and as and when there is change in the

address, he will inform the Family Court about his changed address;

2. The petitioner shall furnish detail of assests which were in his name during the last five years;
3. The Family Court shall be free to proceed against assests of petitioner in accordance with law and in case it is found that petitioner has made sham transactions just to avoid his liability towards maintenance, the proceedings shall be initiated against the petitioner to recover arrears of maintenance as recovery of land revenue as provided under Section 125 Cr.P.C. read with Section 421 Cr.P.C.;
4. The Family Court, at the first instance, shall attempt to recover arrears from assests of the petitioner and arrest of the petitioner would be effected as a last resort.

(JAGMOHAN BANSAL)
JUDGE

27.03.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No