

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

132

CR-1773-2023 (O&M)
Date of decision: 28.07.2023

RAJBALA

....Petitioner

Versus

SEWA SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Sandeep Sharma, Advocate for the petitioner.

ANIL KSHETARPAL. J.(Oral)

1. There is decree for recovery of money in favour of the petitioner. He is aggrieved of the following observations made by the Executing Court in the order dated 03.01.2023:-

“In view of the aforesaid candid admission, the decree against the aforesaid, in the spotlight of the observations of the judgment and decree as well as the order of this Court dated 23.11.2022, the decree against both the said JDs stands satisfied.”

2. Learned counsel representing the petitioner submits that the joint and several decree for recovery of the principal amount of Rs.8,99,250/- and of stamp charges of Rs.35,970/- along with interest at the rate of 8% per annum from 14.07.2006 upto the actual payment was passed. He submits that the Executing Court has erred in observing that the judgment and decree against two JDs stands satisfied. He further submits that it is permissible for the decree holder to recover the amount from the judgment debtor jointly or severally. He submits that the entire amount can be recovered from any one of the judgment debtors.

3. This Court has considered the submissions of learned counsel

representing the parties.

4. The duty of the Executing Court is to implement and execute the decree which has been passed by the Court in the present case. The operative part of the judgment which was incorporated in the decree reads as under:-

*“As a sequel to my finding on this issue, suit of the plaintiff succeeds and is **decreed with Cost** to the effect that plaintiff is entitled for the recovery of her principal amount of Rs.8,99,250/- and of stamp charges of Rs.35,970/- @ interest 8% per annum from 14.07.2006 upto the actual realisation of the same. Decree sheet be prepared accordingly. File be consigned to the record room, after due compliance.”*

5. Thus, the decree was joint and several. Consequently, it is permissible for the decree-holder to recover the amount from all or anyone of the judgment debtors. When the Court has issued a direction to recover the amount from the judgment debtor jointly and severally, it was not appropriate for the Executing Court to apportion the liability to repay the amount amongst the judgment debtors.

6. Hence, the above extracted portion of the impugned order is set aside.

7. Disposed of.

(ANIL KSHETARPAL)
JUDGE

July 28, 2023
Amandeep

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No