

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

CR No. 2386 of 2023

DATE OF DECISION :- April 21, 2023

Neelam Goyal

...Petitioner

Versus

Avtar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mohd. Salim, Advocate for the petitioner.

This revision petition is directed against order dated 16.1.2023 vide which the execution application filed by petitioner decree holder Neelam Goyal had been dismissed.

The facts of the case as those transpired from the perusal of the record are that a suit for recovery for a sum of Rs.4,70,000/- with interest and cost filed by plaintiff Neelam Goyal against Avtar Singh had been decreed by the trial Court of Additional Civil Judge, Senior Division, Nabha vide judgment dated 9.6.2011. For execution of that decree, the decree holder filed an execution application wherein JD had been proceeded against ex-parte. The Executing Court had issued warrants of arrest against JD but those could not be executed. The decree holder was asked to furnish latest address of JD but he could not do so, consequently the execution application was dismissed leaving the decree holder aggrieved. Since respondent had been proceeded against ex-parte in the execution proceedings issuance of notice to him is dispensed with.

Learned counsel for the revision petitioner has contended that since an F.I.R No. 61 dated 8.4.2023 has been registered against respondent JD but he is on run, therefore, the petitioner decree holder could not give the latest address of the JD and dismissal of execution application was not justified.

After hearing learned counsel for the revision petitioner decree holder, I find that the impugned order is not sustainable. After obtaining a decree for recovery in his favour in the year 2011, the decree holder wants to reap fruits of that decree by filing an execution application. The Executing Court should have shown sensitive approach in that matter in order to help the decree holder in effecting recovery rather than dismissing the execution application in such a manner.

The revision petition is accepted. The impugned order is set aside with a direction to the Executing Court to adopt all the means as per law to ensure the execution of decree passed in favour of decree holder. Hyper technical approach in the matter may not be adopted in such type of proceedings. The execution application is ordered to be restored with a direction to the Executing Court to proceed further in the matter in accordance with law.

The revision petition is allowed accordingly.

(H.S. MADAAN)
JUDGE

April 21, 2023
p.singh

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No