

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

Sr. No.112

CR-2646-2023

Date of Decision: 01.05.2023

ARUN SINGLA ALIAS ARUN KUMAR SINGLA

....Petitioner

Versus

KULBIR SINGH AND ANR

..... Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Prashant Bansal, Advocate
for the petitioner.

ARCHANA PURI, J

Challenge in the present revision petition is to the order dated 01.10.2019 (Annexure P-5), passed by the Court below, thereby dismissing the objections of petitioner/Judgment Debtor in execution petition bearing No.30 of 2019 dated 19.03.2019.

Facts, as culled out from from the paper book are that initially, Kulbir Singh and Tejinder Singh has filed a suit against the present petitioner, for seeking recovery of Rs.32,64,000/-. The said suit was decreed vide judgment dated 14.12.2018, copy whereof is Annexure P-1. The decree was to the amount of Rs.24,00,000/- along with interest @ 12% per annum from the date of issuance of the cheques in question, till actual realization.

In the execution petition, so filed, seeking execution of the aforesaid decree, objections were filed by the petitioner/Judgment Debtor. In the objection petition, the sole ground taken is with regard to the filing of the complaint under Section 138 of Negotiable Instruments Act,

which has since been dismissed, on account of conduct of the decree-holder and in these circumstances, in the objection petition, it has been submitted that the Execution be halted. However, the objection petition was disposed of vide the impugned order dated 01.10.2019.

It is now submitted by learned counsel for the petitioner that since the complaint under Section 138 of Negotiable Instruments Act, for recovery of the amount, as claimed in the execution petition has been dismissed, on account of some concealment, on the part of the decree holder. Therefore, in these circumstances, execution petition ought to have been dismissed.

On query by the court, it was disclosed that no appeal, as such, has been filed to challenge the decree dated 14.12.2018. However, it was not disclosed as to whether any appeal had been filed to challenge the complaint under Section 138 of Negotiable Instruments Act.

However, it should be noted that the execution in hand related to the execution of the judgment and decree dated 14.12.2018, vide which the suit filed by the respondent/plaintiff was decreed for an amount of Rs.24,00,000/- along with interest component. Even though, complaint under Section 138 of Negotiable Instruments Act, had been filed *vis-a-vis*, the same amount, which forms the basis of the aforesaid suit, but however, it is separate proceedings.

In the light of the same, when the decree has been so passed in the Civil Suit, though based on the cheques and resort to the complaint under Section 138 of Negotiable Instruments Act, being a separate proceeding, the objections, as such, could not halt the execution proceedings and therefore are not maintainable.

In view of the same, learned Executing Court had rightly dismissed the objection petition. Hence, the impugned order calls for no interference and accordingly, the instant revision petition is hereby dismissed.

01.05.2023
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No