

CR-4136-2023

2023:PHHC:095361

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-4136-2023

Date of Decision: 26.7.2023

Kamaljit Kaur

....Petitioner

VERSUS

Amrik Singh

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Parveen Chauhan, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present revision petition has been filed by the petitioner/decreed holder against order dated 29.3.2023 passed by the Court of Civil Judge, Junior Division, Ludhiana whereby the execution application filed by the petitioner is dismissed in default for want of prosecution on the ground that the petitioner failed to furnish details of property of respondent/JD which could be attached to recover arrears of maintenance.

2. From the perusal of impugned order, it is evident that the judgment debtor/respondent was already proceeded against *ex parte* in the execution application filed by the petitioner to recover arrears of maintenance.

3. Counsel for the petitioner submits that the marriage between the parties was dissolved under Section 13 of Hindu Marriage Act. The petitioner filed suit for recovery of maintenance and the said suit was partly decreed for recovery of ₹ 2 lakh along with interest etc.; that even in the proceedings of said civil suit, the respondent was proceeded against *ex parte*. It is further submitted that in order to execute the aforesaid money

decree, the petitioner filed execution application but the same was dismissed on the ground that the petitioner failed to furnish list of property of JD/respondent. Counsel for the petitioner further submits that earlier also, list of property was provided to the executing Court but the Court observed that the said property was already attached. So, it asked the petitioner to provide fresh list of property to be attached.

4. Counsel for the petitioner further submits that now the petitioner is having fresh list of property of JD which could be attached in the execution proceedings. So, prayer is made that the impugned order be set aside and the execution application should be revived.

5. I have considered the submissions made by the counsel for the petitioner.

6. It appears that JD/respondent is residing in U.K. and has not paid the maintenance in compliance of decree dated 23.2.2010. In order to recover the said maintenance, the petitioner filed execution application but the same was dismissed for want of prosecution by the executing Court vide order dated 29.3.2023 (Annexure P-7). The petitioner is a divorcee and requires money to fulfill her daily needs and the decree for recovery of ₹ 2 lakh is already passed in her favour and against the respondent. The Court should have given one more opportunity to the petitioner to provide list of properties to be attached, before passing the impugned order having serious repercussions. This Court is of the view that in the given circumstances, the impugned order is liable to be set aside and opportunity be given to the petitioner to furnish list of properties of the respondent which could be attached to recover the decretal amount.

7. Consequently, the present revision petition is allowed and the impugned order is set aside and the execution application be restored to its original number. The petitioner is directed to furnish fresh list of property of the respondent-JD to be attached within next 30 days and on furnishing the said fresh list of property, the executing Court should make sincere efforts to satisfy the decree dated 23.2.2010.

(KARAMJIT SINGH)
JUDGE

July 26, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No