

2023:PHHC:119056

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CR-5276-2023 (O&M)
Date of Decision:-12.9.2023

Gurmukh Singh ... Petitioner

Versus

The Kapurthala Rural Cooperative H/B Society Limited and others
... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Avtar S. Khinda, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 4.8.2023 (Annexure P-6) passed by learned Civil Judge (Senior Division), Kapurthala-cum-Executing Court, Kapurthala vide which the objections filed by the petitioner during the course of execution petition arising out of award dated 28.5.2008 (Annexure P-1), have been dismissed.
2. A few facts necessary to notice are that respondent No.1 – The Kapurthala Rural Cooperative H/B Society Limited had initiated proceedings in terms of Section 55 of Punjab Co-operative Societies, 1961 against petitioner's grandfather namely Geja Singh, wherein the Arbitrator i.e. District Manager,

Housefed, Kapurthala had directed that an amount of Rs.4,51,810/- be recovered from Geja Singh payable to respondent No.1 – The Kapurthala Rural Cooperative H/B Society Limited, arrayed as respondent No.1 herein. Said Geja Singh expired on 16.5.2014 as would be evident from death certificate (Annexure P-1A). As per his WILL (Annexure P-2) his grandsons i.e. petitioner Gurmukh Singh and Gurjinder Singh were to succeed to his estate.

3. Respondent No.1 – The Kapurthala Rural Cooperative H/B Society Limited initiated execution proceedings on the basis of award in question, wherein the judgment debtor (JD) Gaje Singh was impleaded as a party through his following heirs:

- “1. Jaspal Singh (son)
2. Amrk Singh (son)
3. Biro (daughter)
4. Kashmiro (daughter)
5. Dilbero
6. Pallo”

4. It is noteworthy that the petitioner – Gurmukh Singh was not impleaded as legal representative of aforesaid Geja Singh. However, subsequently the petitioner upon coming to know about the pendency of execution proceedings submitted third party objections, wherein he claimed himself to be the successor of estate of Geja Singh on the basis of WILL (Annexure P-2). The objections raised in the execution petition were that the petitioner had not been given an opportunity to rebut the claim of the decree-holder. The said objections were, however, dismissed vide order dated 4.8.2023 (Annexure P-6), which is assailed by way of filing the instant petition.

5. Learned counsel for the petitioner submitted that the petitioner was never aware either about the arbitration proceedings or about the execution proceedings and as a matter of fact was not even arrayed as legal representative of Geja Singh in the execution proceedings and, as such, the impugned order is not sustainable on account of violation of principles of natural justice.
6. This Court has considered the aforesaid submissions.
7. There is no dispute as regards the fact that the Arbitrator's award dated 28.5.2008 (Annexure P-1) has attained finality. The respondent – decree holder was well within its rights to seek execution of the award in question and having filed the execution petition, the respondent – decree holder impleaded Geja Singh (deceased) through his legal representatives i.e. sons and daughter. However, the petitioner, who is grandson of Geja Singh, was not impleaded as legal representative but subsequently the petitioner himself filed the objections before the Executing Court as third party objector claiming that deceased Geja Singh had bequeathed his land in his favour by way of a WILL. The Executing Court duly considered the aforesaid contentions and observed that since the petitioner - Gurmukh Singh claims his title upon the mortgaged property, then he is also liable to pay the decretal amount.
8. This Court does not find any infirmity in the aforesaid findings inasmuch as the petitioner having moved the objection petition before the Executing Court cannot now turn round and say that he was never given an opportunity by the Executing Court. In any case, the petitioner having succeeded to the estate of deceased Geja Singh is under a pious obligation to discharge his liabilities as

well. Consequently, this Court does not find anything perverse in the impugned order, so as to justify any interference. The instant petition is sans merit and is hereby dismissed.

12.9.2023
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No