

In the High Court of Punjab and Haryana, at Chandigarh**Second Appeal Order No. 73 of 2019 (O&M)****Date of Decision: 21.12.2023**

Dharam Pal (Now Deceased) through his Legal Representatives

... Appellant(s)

Versus

Ran Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Sushil Jain, Advocate
for the appellant(s).Mr. Amit Kumar Jain, Advocate
for the respondent.**Anil Kshetarpal, J.**

1. The appellants before this Court are the heirs of late Sh.Dharam Pal. His widow and three children have come up in appeal before this Court.
2. Ran Singh (respondent) filed a suit for specific performance of the agreement to sell with respect to the residential house constructed in the area measuring 125 square yards. The trial Court did not grant the decree for specific performance, however, ordered refund of the earnest money along with the interest @ 9% per annum, which, in appeal, was reduced to 6% per annum. In the meantime, Dharam Pal had committed suicide. He left behind his widow and three minor children to fend for themselves. While filing the appeal, they filed an application to file an appeal as indigent persons which was allowed.

Ran Singh has filed the execution petition to recover the

amount of ₹6,00,000/- along with the interest. The objections were filed by the appellants claiming that this is their only residential house, therefore, they sought exemption from attachment of the said house under Section 60(ccc) of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) as applicable to the State of Haryana. The Executing Court allowed the execution petition, however, the First Appellate Court has reversed the same.

4. On 06.01.2020. the learned counsel representing the appellants undertook to pay the principal amount in order to satisfy the decree. The aforesaid amount has already been paid. The only dispute is with respect to the amount of interest.

5. The learned counsel representing the appellants contends that the appellants do not have the resources to pay the amount. It has been highlighted that as many as seven persons are residing in a small house constructed in the land measuring 125 square yards. It has also been pointed out that the appellant No. 1(iv) i.e. Minakshi daughter of late Sh.Dharam Pal has been divorced by her husband and now she along with her minor children is also residing in the same house.

6. On the other hand, the learned counsel representing the respondent submits that protection under Section 60(ccc) CPC is not applicable because the decree was with respect to the immovable property and hence, the same is charged to the aforesaid debt.

7. This Court has considered the submissions of the learned counsel representing the parties.

8. Undoubtedly, the appellants are not entitled to protection under

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Section 60(ccc) CPC in view of the detailed judgment passed in *Rulia Singh v. Munsha Singh (Civil Revision No. 6329 of 2019, decided on 03.11.2023)*. However, this Court is facing dilemma. On the one hand, the appellants are in a precarious financial position, whereas on the other hand, there is a decree holder who has been granted relief by the Court. As noticed above, the principal amount stands paid. If the Court permits further execution of the decree, the appellants may even be deprived of the only roof they have in the world.

9. Keeping in view the aforesaid facts, it is directed that the execution petition be disposed of as satisfied. The decree holder shall not be entitled to further execute the decree.

10. With the observations made above, the present appeal is disposed of.

11. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

December 21, 2023

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No