

CR-5086-2023

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

Sr. No.133

CR-5086-2023

Date of Decision: 04.09.2023

GURDAS SINGH

....Petitioner

Versus

GURSEWAK SINGH THROUGH HIS LRS

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. K.S. Brar, Advocate
for the petitioner.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 28.03.2022 (Annexure P-2), passed by the Court below, whereby the petitioner/JD was proceeded against ex-parte, as well as, order dated 20.05.2023 (Annexure P-4), whereby the decree-holder/respondent was allowed to take part in auction proceedings and also exempted from deposit of 1/4th of auction money, being illegal and arbitrary.

Learned counsel for the petitioner heard.

Facts, as culled out from the paperbook are that initially, the respondent/plaintiff had filed a suit against the petitioner, thereby seeking recovery of Rs.6,22,500/-, inclusive of the interest upon the principal amount of Rs.2,47,500/-. The aforesaid suit was decreed vide judgment and decree dated 17.08.2019 along with proportionate costs for the recovery of Rs.3,75,000/- alongwith interest @ 9% per annum from the date of execution of Ex.P-1 and Ex.P-2 i.e. pronote and receipt, in question.

CR-5086-2023

However, execution petition was filed by the decree holder. During the pendency of the same, the petitioner did not make appearance and vide order dated 28.03.2022, he was proceeded against *ex-parte* and thereafter, in pursuance of an application under Order 21 Rule 66 CPC filed by the decree holder, the property of the present petitioner/Judgment Debtor was ordered to be put to auction, vide order dated 19.11.2022 and report was ordered to be made on 18.01.2023. Thereafter, again it was not so executed and vide order dated 25.05.2023, fresh sale proceedings were ordered to be conducted and for report, it was adjourned to 01.07.2023, which is also under challenge in the present revision petition.

On query by the Court, the subsequent orders dated 07.08.2023 and 01.07.2023 passed by the Court below, for conducting of the sale proceedings, as such, have been placed on record.

Now, the Execution is fixed for report on 16.09.2023. The auction is to be conducted on 08.09.2023. At this juncture, learned counsel for the petitioner submits that the petitioner is ready to make the payment of the decretal amount together with the interest outstanding, before the Executing Court. He has also given an undertaking to file an application within a period of 10 days from today onwards before the Executing Court, for seeking permission to make the aforesaid payment, within a period of one month, since the day of filing of an application.

On receipt of the said application, notice shall be issued to the respondent/DH by the concerned Court and the concerned Executing Court shall fix the appropriate date, for making the payment.

CR-5086-2023

In view of the undertaking, so given, the concerned Court shall not further conduct the sale proceedings. The lower Court shall re-call the order dated 07.08.2023, in view of the undertaking so given.

However, in the eventuality of the petitioner, not complying with the order of making payment within a period of one month, may be for any reason, the Executing Court shall be at liberty to revive the sale proceedings from the stage, as existing on 07.08.2023, in the execution proceedings.

Accordingly, the present revision petition stands disposed of.

04.09.2023
Sonu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No