

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.132

Case No. : CR-5635-2023 (O&M)

Date of Decision : September 25, 2023

Rishi Raj Chauhan
@ Rishi Raj Pal Singh Chauhan Petitioner
vs.

Arun Sharma and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. R. K. Choudhary, Advocate
for the petitioner.

* * *

GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 06.02.2023(Annexure P-8), passed by learned Civil Judge (Junior Division), Gurugram (for brevity – the Executing Court), whereby right to file objections in execution pending on behalf of petitioner, has been forfeited. Further challenge is to the order dated 03.08.2023 (Annexure P-12), passed by the learned Executing Court, whereby application for setting aside the order dated 20.02.2023 (Annexure P-9) has been dismissed, along with prayer to quash the said order dated 20.02.2023, whereby the petitioner has been proceeded against ex-parte in execution petition.

2. Learned counsel for the petitioner has argued that vide order dated 06.02.2023, right to file objections by the petitioner has been forfeited.

The petitioner has been proceeded against ex-parte vide order dated 20.02.2023. An application was moved for setting aside the said ex-parte proceedings but the same was dismissed mainly on the ground that execution petition is required to be disposed of mandatorily within six months. It is further submitted that the petitioner was in custody, therefore, he could not file objections.

3. I have heard the submissions made by learned counsel for the petitioner and also perused the case file.

4. There is no provision in the CPC to adjourn the case for filing objections in the execution petition. If any person has any objection to the execution, then he/she may file the objections and the Court is required to dispose of the same. There is no provision that right to objection can be forfeited.

5. Keeping in view the fact that the execution petition is already very old and if notice is issued to the decree-holder, then it may put financial burden on the decree-holder. So, in order to avoid that and in the interest of justice, this Court is of the view that one opportunity must be given to the party to be heard if he has objection to the execution.

6. In view of the aforesaid, the present revision petition is allowed and it is directed that only one opportunity be granted to the petitioner to file objections, subject to payment of Rs.10,000/- as costs to be paid to the decree-holder. The objections, if any, are to be filed on or before the next date fixed before the Executing Court. In case of default, this order shall automatically stand vacated.

7. If respondents/decreed-holders is not satisfied with this order, an application can be moved to recall the same within 30 days.
8. The revision petition stands allowed in the aforesaid terms.
9. Pending applications, if any, shall stand disposed of along with this judgment.

September 25, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.