

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

CR-5221-2022(O&M)

Date of decision:-28.3.2023

Jasvir Kaur and another

...Petitioners

Versus

Rupinder Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.D.S. Bali, Advocate
for the petitioners.

Mr.H.P.S. Ghuman, Advocate
for respondent No.1.

Mr.Chandeep Singh, Advocate
for respondent No.2.

H.S. MADAAN, J.

1. Being impugned in this revision petition is the order dated 6.10.2022 passed by Civil Judge (Jr.Divn.), Jalalabad(W), District Fazilka in an execution application titled as 'Rupinder Singh Versus Jasvir Kaur etc.' in which warrants of sale of the property for recovery of money has been issued.

2. Briefly stated, facts of the case are that plaintiff Rupinder Singh had brought a suit against defendants Jasvir Kaur, Amritpal Singh and State Bank of India, Jalalabad Branch, seeking possession by way of specific performance of agreement to sell and for permanent injunction. After contest, the said civil suit bearing No.17-1 of 17.5.2014 was decided on 12.1.2016; resultantly suit of the plaintiff was decreed for alternative

relief of recovery of earnest money of Rs.42,50,000/- along with interest @ 12% per annum from 20.6.2011 to the date of decree and further interest @ 6% per annum on the principal amount from the date the decree to the date of payment against defendants No.1 and 2.

3. Thereafter, the plaintiff filed an execution application to effect the recovery from the defendants/JDs wherein they appeared and filed objections, which were opposed by the decree-holder/plaintiff. Vide the impugned order dated 6.10.2022 the objections were dismissed. For ready reference, the operative part of the order is being reproduced as under:

7. *I have considered the respective submissions. It is objection of JDs that the market value of the property under attachment is about Rs.40,00,000/- per acre. Even in agreement the rate of the land is mentioned as 11,42,000/- per acre. It is further objection of Jds that the property under attachment is to be put to sale at collector rate or market rate, is to be determined on the basis of evidence to be led by both the parties. This court does not find any substance in this submission simply because of the reason that in case the Jds are allowed to lead evidence just for the purpose of determining the rate of property, it would lead to initiation of second line of litigation which the law does not permit. In fact instead of making the payment of amount, the JD want to linger on the matter on one pretext or the other. In case JDs want to get the rate of property under attachment assessed, he can very well make the payment of amount involved in the execution. It is mandate of*

Order 21 Rule 64 of CPC that the auctioneer is bound to put only such portion of the land under attachment to sale which would be sufficient to fetch the amount involved in the execution. Moreover, he is duty bound to conduct the proceedings in open auction. In case the persons participating in the auction proceedings pay amount more than the collector rate, then he would put the property under attachment to sale at that rate. However, this court cannot directly ask the auctioneer/revenue officer to put the property to sale at market rate. The judgments relied upon by JDs are not applicable to the facts of the present case.

4. Such order left the defendants No.1 and 2/JDs aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was issued to the respondents, who put in appearance through counsel.

5. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

6. The defendants/JDs had raised objection with regard to fixing market value of the property keeping in view the Collector rate. The Executing Court by giving valid reasons has found the objection to be without any merit. It has been observed that even in the agreement, the rate of land is mentioned as Rs.11,42,000/- per acre and the objection by the JDs that market value of the land under attachment is around Rs.40 lakhs per acre was found to be without merit. The Executing Court had

observed that the JDs instead of making payment are trying to stretch the proceedings by raising such type of objections. The objections so filed by the JDs were rightly rejected by the Executing Court.

7. Though learned counsel for the revision petitioners has contended that the Executing Court was required to conduct an inquiry for fixing the evaluation of the property sought to be put to auction and in support of his that contention, he has referred to judgments *Silvi Versus Iritty Chits Finance and Investments (Private) Limited, 2021(4) KLT 473* and *Unni Madhavan Nair Versus Sreenarayana Investment, 2009(4) ILR (Kerala) 58*. But I find that this submission not to be worthy of acceptance. As per the rules, no detailed inquiry to determine the value of the attached property is required to be done by the Executing Court. Although Sub-Rule 4 of Order 21 Rule 66 CPC provides that for the purpose of ascertaining the matters to be specified in the proclamation, the Court may summon any person whom it thinks necessary to summon and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto. But that does not mean that the Executing Court shall conduct a thorough probe with regard to the market value of the property sought to be attached and sold in execution of the decree. The submissions made by learned counsel for the revision petitioners are without any force. The Executing Court had determined the value keeping in view the relevant factors and no fault can be found with the same. The judgments relied upon by the learned counsel for the revision petitioners supra are not applicable to the present case due to different facts and circumstances and

the context in which such observations had been made.

8. The impugned order passed by the Executing Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

9. Finding no merit in the revision petition, the same stands dismissed.

The interim order dated 15.11.2022 passed by this Court stands withdrawn.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

28.3.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No