

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

138

CR-6202 of 2023
Date of Decision: 16.10.2023

Puneet Vatsayanaged

....Petitioner

Versus

M/s Altruist Technologies Pvt. Ltd. and others

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Anant Malik, Advocate and
Mr. Mayank Goyal, Advocate
for the petitioner.

SANJAY VASHISTH, J.(Oral)

1. Present revision petition has been filed by the Judgment debtor against the order dated 09.10.2023 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Panchkula, Haryana, whereby the application moved by the petitioner under Section 151 C.P.C., seeking stay of the Execution proceedings till the time mediation proceedings are completed, which are fixed for 26.10.2023, has been dismissed by the Executing Court.

2. Mr. Anant Malik, learned counsel for the petitioner submits that the Appellate Court, where first appeal under Section 96 of C.P.C. is pending for its adjudication alongwith the application

under Order XLI Rule 5 C.P.C. has already referred the dispute to the Mediator, ADR Centre, Panchkula vide its order dated 21.09.2023, which has been passed in the presence of the decree holder. For the sake of convenience, the same is reproduced here under:

'Present:Shri Manish Pathak and Ms. Jemini Jaiswal, learned counsels for the appellants. Shri Nitesh Mittal, learned counsel for respondents no.1 to 4. Shri Tarun Gupta, learned counsel for respondent No.5.

In compliance of order dated 29.08.2023, security equivalent to the sum decreed has not been furnished by the appellants. Counsel for both the parties submitted that there are chances of amicable settlement between the parties to the appeal and prayed to refer the matter for mediation. Heard. In view of the above, the parties are directed to appear before the Mediator, ADR, Centre, Panchkula on 05.10.2023 at 10:00 A.M. for reconciliation and mediation. Report of mediation be awaited for 18.10.2023.'

3. Mr. Anant Malik, learned counsel for the petitioner has pointed out that the Mediation proceedings are now fixed before the Mediator, ADR Centre, Panchkula, for 26.10.2023. He further submits that in the present suit, there is a decree for recovery of an amount of Rs.5 Crores alongwith interest against the Judgment Debtors.

4. On the other hand, there being no stay order passed by the learned Appellate Court while referring the dispute to the Mediator, ADR Centre, Panchkula, the Executing Court has passed the order of issuance of warrants of attachment of immovable property of Judgment Debtor No.4-Smt. Anupama Arya (proforma respondent No.7 herein).

5. At this stage, it is noticed that the direction for attachment of the property is only qua Judgment Debtor No.4-Smt. Anupama Arya (Proforma respondent No.7 herein) and who has not even assailed the order and there is no such direction for issuance of warrants of attachment of immovable property of any other judgment Debtor except Judgment Debtor No.4.

6. Learned counsel for the petitioner has failed to give any plausible explanation in this regard, except for pointing out that the application in which the impugned order has been passed, was filed by Judgment Debtors No. 1 to 3 .

7. On being confronted by this Court, Mr. Malik, learned counsel for the petitioner accepts that the order of attachment is undoubtedly against the property of an individual, i.e. Judgment Debtor No.4 (proforma respondent No.7). Since, learned counsel for the petitioner could not point out any order passed against the interest of Judgment Debtors No. 1 to 3, this Court is of the considered view that even the application moved before the Executing Court is misconceived and, hence, finds no substance in the submissions made by learned counsel for the petitioner. As the property which has been ordered to be attached, is of an individual, i.e.Smt. Anupama Arya (performa respondent No.7 herein) only, who is Judgment Debtor No.4 in the Execution proceedings, therefore, the present revision petition stands dismissed.

8. However, liberty is granted to the petitioner to approach to the Appellate Court where first appeal under Section 96 C.P.C. is pending alongwith application under Order XLI Rule 5 C.P.C. to seek stay of operation of the impugned judgment and decree therein, taking into consideration the mediation proceedings pending before the Mediator, ADR Centre, Panchkula, for 26.10.2023.
9. The learned Appellate Court is directed to take some decision interim/final within a period of two days on filing of the application by the petitioner.

October 16, 2023

rashmi

Whether speaking/reasoned

Whether reportable?

[SANJAY VASHISTH]

JUDGE

yes/no

yes/no