

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

150

2023:PHHC:137270

**EFA-8-2023(O&M)
Date of decision: 20.10.2023**

KARAMDEEP KAUR

..Appellant

Versus

**PUNJAB STATE WAREHOUSING CORPORATION
LIMITED AND ANOTHER**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vivek Suri, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

CM-4914-CI-2023

1. For the reasons stated in the application for condonation of delay, which is supported by an affidavit, the application is allowed.
2. The delay of 121 days in filing the appeal is condoned.
3. CM stands disposed of.

Main case

4. The appellant herein claims to be divorced wife of the judgment debtor. She claims that her husband in lieu of maintenance, transferred land measuring 4 kanal in her favour on 21.08.2013. There is an arbitration award against her husband for recovery of more than Rs.3 crore. The Executing Court while dismissing the objection has formed an opinion that the transfer of the property by the judgment debtor is a fraudulent transfer in order to defraud his creditor.
5. The correctness of the aforesaid order has been challenged in this execution first appeal. The learned counsel representing the appellant contends that the appellant is entitled to retain the property as it was

that the appellant is a divorced wife and therefore, the Court was required to frame issues and allow the appellant to lead evidence.

6. This Court has considered the submissions of the learned counsel representing the appellant.

7. Admittedly, when the property was transferred by the judgment debtor in favour of the petitioner, the proceedings for passing the award were pending before the arbitrator. Moreover, the petition for grant of decree of divorce by mutual consent was also filed during the pendency of the arbitration proceedings. Thus, it is evident that the transfer of the property by the judgment debtor in favour of his wife was in order to defraud the rights of recovery of the creditor. Section 53 of the Transfer of Property Act, 1882, provide that every transfer of immovable property made with intent to defeat or delay the creditor is voidable at the option of the creditor.

8. In view of the aforesaid fact, no ground to interfere is made out.

9. Dismissed accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

October 20th, 2023

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*