

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**121****CR No.360 of 2024****Reserved on : 15.04.2024****Pronounced on : 24.04.2024**

Amit Gupta

....Petitioner

VERSUS

Ramesh Chand @ Romesh Chand & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shubham Chandel, Advocate for the petitioner.

ALKA SARIN, J.

1. The present revision petition being filed under Article 227 of the Constitution of India challenges the order dated 04.12.2023 passed by the Executing Court whereby the objections filed by the judgement debtor-petitioner herein have been dismissed.

2. The decree holder-respondent No.1 filed a suit for recovery of Rs.3,72,350/- (Rs.2,75,000/- being the principal amount and Rs.97,350/- being interest). The suit was decreed vide judgment and decree dated 03.07.2019 passed by the Trial Court. An execution application was preferred by the decree holder-respondent No.1 claiming a sum of Rs.4,40,305/-. The amount was sought to be recovered by way of attachment and sale of the house of the judgment-debtors (the present petitioner and respondent Nos.2 to 4) which, as per the execution application, had been inherited by them from their father/husband. The judgement debtor-petitioner herein was proceeded against ex-parte on 26.08.2022. On

27.10.2022 objections were filed by the mother of the present judgement debtor-petitioner i.e. judgement debtor-respondent No.2 herein. The said objections were dismissed by the Executing Court vide order dated 20.04.2023. Against the said order, the mother of the present judgement debtor-petitioner i.e. judgement debtor-respondent No.2 herein filed CR-3099-2023 [Sunita Rani vs. Ramesh Chand @ Romesh Chand & Ors.]. Vide order dated 21.07.2023 the said CR-3099-2023 was dismissed by this Court. On 28.08.2023 the ex-parte proceedings against the judgement debtor-petitioner herein were set aside. The judgement debtor-petitioner herein then filed objections against the execution averring that the judgment-debtors were not personally liable for the decretal amount but their liability was limited to the extent of the properties inherited by them from Narinder Kumar who was the father of the judgement debtor-petitioner herein. It was averred that the decree holder-respondent No.1 had got the house attached after concealing true and material facts from the Court. It was further averred that the judgment debtor-petitioner herein was one of the co-owners of the house in dispute where he was residing and that the site plan produced by the decree holder-respondent No.1 was false as no draftsman had visited the spot. It was also averred that the house in dispute was the only residential house of the judgement debtor-petitioner herein and was exempt from attachment/auction as per the provisions of Section 60(1)(CCC) CPC (as applicable to Punjab). The decree holder-respondent No.1 filed a reply to the said objections. Vide impugned order dated 04.12.2023 the objections of the judgement debtor-petitioner herein were dismissed by the Executing Court. Hence, the present revision petition.

3. Learned counsel for the judgement debtor-petitioner herein would contend that the Executing Court has erred in dismissing the objections filed by the judgement debtor-petitioner. He submitted that as per Section 60(1)(CCC) CPC (as applicable to Punjab) the house in dispute being the only residential house of the judgment debtors, it was exempt from attachment. The findings of the trial Court have been assailed on the ground that they are factually also incorrect.

4. Heard.

5. In the present case on 05.03.2024 the following order was passed :

“Learned counsel for the petitioner would contend that the house which has been attached is the only residential house of the petitioner, however, in the impugned order it has been noticed that there is no evidence regarding the same being the only residential house of the petitioner.

Let electricity bills for last six months be placed on the record along with any other proof that this is the only residential house.

List on 15.04.2024.”

No electricity bills or any other proof to show that the house in dispute is the only residential house of the judgement debtor-petitioner have been placed on the record.

6. The Executing Court found that there is not an iota of evidence on the file showing that the judgment debtor-petitioner herein is residing in

the house in dispute which has been attached and further that no other house is in his ownership. Further, the present objections are on similar lines as those which were filed by the mother of the present judgement debtor-petitioner i.e. judgement debtor-respondent No.2 herein. The said objections were dismissed by the Executing Court vide order dated 20.04.2023 and against the said order the mother of the present judgement debtor-petitioner i.e. judgement debtor-respondent No.2 herein filed CR-3099-2023 [Sunita Rani vs. Ramesh Chand @ Romesh Chand & Ors.] which CR-3099-2023 was dismissed by this Court on 21.07.2023. This Court inter-alia held that *“Then a plea was taken that since it was their only residential house, the bar laid down under Section 60(1) proviso (CCC) CPC (as applicable to Punjab) would apply and the house would not be liable to be attached. They however did not produce on record any document worth its name to prove any of their assertions. They could not prove that if they were the owners of the house, it was their only house and that they were residing in the same, which could have given them the benefit of Section 60(1) proviso (CCC) CPC (as applicable to Punjab)”*. Even now learned counsel for the judgement debtor-petitioner herein has been unable to place on the record any electricity bills or any other proof to show that the house in dispute is the only residential house of the judgement debtor-petitioner herein despite opportunity having been granted. No factual inaccuracy in the impugned order has been pointed out. The attempt of the judgement debtors is clearly to prolong the execution proceedings so as to frustrate the decree holder-respondent No.1 from reaping the fruits of the decree in his favour.

7. In view of the above, the impugned order dated 04.12.2023 cannot be faulted with. There is no illegality or irregularity in the impugned order. The present revision petition, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

24.04.2024

jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No