

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140

2024:PHHC:021641

CR-386-2023
Date of decision: 15.02.2024

SAMANDER GUPTA AND OTHERS ..Petitioners

Versus

RAJENDER SHARMA AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Adarsh Jain, Advocate
for the petitioner.

Mr. Akshay Jindal, Advocate
and Mr. Pankaj Gautam, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The petitioners herein have a decree for recovery of amount, which was paid by them at the time of execution of an agreement to sell to the respondents. The execution petition filed by the petitioners has been dismissed by the Executing Court on objections filed by the judgment debtors. In substance, the judgment debtors claimed that the Court has no jurisdiction to execute the decree by way of civil imprisonment as the judgment debtors are residing outside the territorial jurisdiction of the Court.
2. At the time of the arguments, the learned counsel representing the parties concede that the Executing Court could not dismiss the execution petition. There were various other options available to the Executing Court including transfer of the decree to the Court, where the judgment debtors have the property.
3. The learned counsel representing the petitioners submits that the Executing Court should have directed the judgment debtors to appear and file affidavit disclosing their assets.

4. On the other hand, the learned counsel representing the respondents submits that no such application was filed by the petitioners and no list of property was disclosed.

5. It was not appropriate for the Executing Court to dismiss the execution petition unless it comes to a conclusion that the judgment debtors are neither owners of any property in any part of the country nor they are in position to pay the amount. It is open to the Executing Court to transmit the decree to the place where the judgment debtors own some property.

6. Without commenting upon the merits of the case, the impugned order passed by the Executing Court is set aside to the extent that the execution petition has been wrongly dismissed. The execution petition is restored to its original number.

7. The Executing Court is requested to proceed in accordance with the law.

8. The parties through their learned counsel are directed to appear before the Executing Court on 04.03.2024.

9. With these observations the present petition is disposed of.

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

February 15th, 2024

Ay

**(ANIL KSHETARPAL)
JUDGE**

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