

CR-538-2024 (O&M)

- 1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

125

CR-538-2024 (O&M)

Date of Decision: 21.03.2024.

Buta Singh

...Petitioner.

Versus

Jarnail Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. S.K. Yadav, Advocate for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 21.11.2023 passed by learned trial Court, vide which the objections filed by the petitioner were dismissed.

2. The brief facts relevant for the adjudication of the present revision petition are that the respondent/ plaintiff filed a suit for recovery of Rs.6,14,400/- (principle amount of Rs.6,00,000/- and Rs.14,400/- as interest) on the basis of pronote and receipt dated 23.09.2021. In the said suit, the petitioner was proceeded against exparte vide order dated 03.12.2022 and the said suit was exparte decreed on 23.01.2023, Thereafter, the petitioner filed an application under Order 9 Rule 13 CPC for setting aside of exparte order, judgment and decree, vide application dated 05.05.2023. Reply to the said application was filed by the respondent on 17.08.2023 and the said application was dismissed by the trial Court vide order dated 18.08.2023. The petitioner filed an appeal against the order dated 18.08.2023 before the Appellate Court, learned District Judge,

CR-538-2024 (O&M)

- 2-

Kapurthala, which is still pending.

3. The respondent filed execution for compliance of judgment and decree dated 23.01.2023. The petitioner had filed objections in the said execution on 05.10.2023. Reply to the same was filed by the respondent and the said objections were dismissed by the Executing Court vide order dated 21.11.2023. Hence, the petitioner knocked the doors of this Court by way of filing the present revision petition.

4. Learned counsel for the petitioner/ JD has contended that the suit for recovery was filed by the respondent on 03.10.2022 on the basis of alleged created documents. The respondent is running the business of money lender and generally used to advance loan to the villagers to procure heavy interest.

5. He has submitted that the petitioner approached the respondent on 13.10.2018 to advance loan to the tune of Rs.3,50,000/- with the condition that if the objector/ petitioner would return the amount within six months, then he would charge interest @ 1% per month on the principal amount and thereafter, he was to pay interest @ 3% per month. Then the respondent handed over the amount of Rs.3,50,000/- on 15.10.2018 adjusting advance interest @ 3% per month for two years which comes to the tune of Rs.2,52,000/-. Thus, total amount comes to the tune of Rs.6,02,000/-. It was settled between the petitioner and respondent that objector/ petitioner would pay Rs.5,60,000/- if he failed to return the loan amount within six months and to this effect a pronote and receipt was got executed on 15.10.2018, through the regular Scribe/ Deed Writer. With the passage of time, the objector/ petitioner could not arrange the aforesaid

CR-538-2024 (O&M)

- 3-

advance amount within stipulated period of six months and an amount to the tune of Rs.2,00,000/- was handed over on 20.10.2019 to respondent out of the actual received amount as detailed above, in the presence of Sunnu Kumar son of Grunam Kumar etc. The remaining amount of Rs.15,000/- alongwith interest for six months, total of which comes to Rs.1,71,000/- was given to the respondent by the petitioner on 16.02.2020 in the presence of Sunny Kumar son of Gurnam Kumar etc. Since the matter had been settled between the parties through the respectables of the village, so the respondent asked the petitioner to go to the same Scribe/ Deed Writer and put the signatures to cancel the aforesaid pronote and receipt. Accordingly, as per the said settlement, the petitioner had signed the document to get aforesaid pronote and receipt cancelled and thought that the matter was closed, but the respondent got the decree dated 15.03.2023 at the back of the petitioner.

6. Earlier the petitioner was not in knowledge of the same and it came to his knowledge only on 20.02.2023 when the respondent/ plaintiff/ DH openly stated proclaiming in the village that he had got decree passed against the petitioner/ JD from the trial Court. He has contended that the lower Court had decided the case in a hasty manner without affording proper opportunity to the petitioner and without properly appreciating the documents on record.

7. I have heard learned counsel for the petitioner and have gone through the relevant record.

8. So far as this plea of objector that the decree dated 23.01.2023

passed by the trial Court is based on false and fabricated documents is concerned, such an objection cannot be raised before the Executing Court, as it is well settled proposition of law that the Executing Court cannot go behind the decree. It is also the trite law that the Executing Court cannot stall the proceedings in the execution merely on the ground that the civil appeal against the judgment under execution is pending, when no specific stay has been granted by the Appellate Court. When the suit for recovery has already been decided vide judgment and decree dated 23.01.2023 which decree is under execution and the Executing Court is not to go behind the decree, then this plea of the objector was not to be considered by the Executing Court that he had paid an amount of Rs.3,71,000/- to the DH on different occasions. Otherwise also, no material has been placed on record by the petitioner/ objector in support of his aforesaid plea.

10. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

11. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

21.03.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No