



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

127

CR-2358 of 2024 (O&M)  
Decided on: 07.05.2024

Riyaz Mohammad

...Petitioner

Versus

Ramesh Chand and others

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Vivek Suri, Advocate with  
Mr. Darpan Bansal, Advocate and  
Mr. Dushyant Godara, Advocate  
for the petitioner.

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RITU TAGORE, J.

1. The petitioner has impugned the order dated 27.03.2024 passed by learned Additional Civil Judge (Senior Division), Bilaspur vide which his property has been ordered to be attached in Execution No.102 of 2019 titled as ‘Ramesh Chand Vs. Gulzar Ali and others’.
2. Learned counsel for the petitioner contends that respondent No.1 filed a Civil Suit bearing No.309 dated 03.04.2014 titled as ‘Ramesh Chand Vs. Gulzar Ali and others’ for recovery of Rs.50 lakhs alongwith



interest @ 2% per annum from the date of payment till its realization. The aforementioned suit was decreed vide judgment and decree dated 29.08.2019 in favour of the respondent No.1 for recovery Rs.50 lakhs alongwith interest @ 6% per annum with further liberty to respondent No.1 to sell the property of the petitioner in case the decretal amount is not paid within three months. The appeal preferred by the petitioner and others was dismissed. Thereafter respondent No.1 filed an Execution Petition for the implementation of the judgment and decree dated 29.08.2019.

3. The learned counsel for the petitioner further submits that the petitioner as well as respondent No.4, being judgment debtors, filed objections on 03.08.2023 before the learned Executing Court. However, the learned Executing Court without deciding their objections passed the order issuing warrant of attachment of the property of the petitioner vide the impugned order dated 27.03.2024 without following the procedure as enshrined under Order 21 Rule 54 and 58 CPC. It is thus prayed that in view of the circumstances the impugned order is liable to be set aside.

4. Considering the limited prayer made in this revision, notice to respondents is dispensed with.

5. It is suffice to say that respondent No.1 filed the Execution Petition bearing No.102 of 2019 against the petitioner (JD No.3 before the Executing Court) and others for execution of the decree dated 29.08.2019 (Annexure P-2). The copy of the objections dated 31.08.2023 (Annexure P-1) filed by the petitioner and proforma respondent No.4 is available on record. The zimini orders (Annexure P-2 to P-7) placed on record do not indicate that before issuing warrants of attachment of the property of the petitioner, learned Executing Court adjudicated upon the objections and



thereafter issued the warrants of attachment. The sole grievance of the petitioner is that without deciding his objections, as contemplated under the provisions of Order 21 Rule 58 CPC, warrant of attachment of his property has been issued, causing prejudice to his rights.

6. In given circumstances when the objections dated 03.08.2023 filed by the petitioner were pending before the learned Executing Court, it was imperative for the Executing Court to first decide the objections and then issue warrant of attachment of property of petitioner /JD, if same was required. Thus, the impugned order, does not withstand judicial scrutiny and same is liable to be set aside with respect to the property of the petitioner only, with further direction to the learned Executing Court to decide the objections expeditiously and thereafter pass the appropriate orders as contemplated under the law.

7. Ordered, accordingly.

8. However, it is made clear that the petitioner shall cooperate with the Executing Court for the prompt adjudication of his objections without any undue delay. It is made clear that if the petitioner causes any undue delay in decision of his objections, the Executing Court may take appropriate action under the law.

9. Before parting with this order, it is observed that since present order has been passed without giving notice to respondent No.1, however, he would be at liberty to move an appropriate application before this Court, if has any grievance to make. It is further made clear that observations made above shall not cause any prejudice to the respondent No.1 in filing any revision.

10. Accordingly, revision-petition is disposed of in above terms.



11. Pending applications, if any, also stand disposed of accordingly.

(RITU TAGORE)  
JUDGE

07.05.2024  
Rimpal

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