



CR-1850-2021 and connected matter 1

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

(207) CR-1850-2021
Date of Decision: 24.09.2024

(1) Pee Pee Marketing & Anr.Petitioners

Versus

Guru Nanak Electricals and Electronics and anr.Respondents

CR-1854-2021
Date of Decision: 24.09.2024

(2) Pee Pee Marketing and anotherPetitioners

Versus

Guru Nanak Electricals and Electronics and another.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. J. S. Jaswal, Advocate, for the petitioners.

Mr. C. L. Sharma, Advocate,
For respondent No.2(ii)-Maninder Singh.

HARKESH MANUJA, J.(ORAL)

1. This order shall dispose of aforesaid two revision petitions as common facts and law points are involved in both the cases. For brevity, facts are being taken from CR-1850-2021.

2. By way of revision petition No.1854-2021, challenge has been laid to an order dated 07.08.2019 passed by the Court of the Civil Judge (Junior Division)-cum-Executing Court, Jalandhar, whereby, objections filed at the instance of judgment debtor qua release of attachment in relation to property/House No.2786, Mohalla Khatikhan, Opposite Dehli Gate, Bania Bazar, Near Bania Mohalla, Kartarpur, District Jalandhar,

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stands allowed. Further, vide revision petition No.1850-2021, challenge has been made to an order dated 26.02.2020 vide which an application filed on behalf of petitioner seeking re-calling of the order dated 07.08.2019 was declined by the executing Court.

3. Briefly stating, the petitioner-plaintiffs filed a suit for recovery against respondents No.1 and 2 which came to be decreed vide judgment and decree dated 24.08.2016. The relevant portion of the decree-sheet is extracted hereunder:

“This suit is put up before me (Rajbeer Kaur, PCS, Civil Judge (Jr. Divn.) Jalandhar, for final disposal today i.e. 17th day of August, 2016 in the presence of Sh. Gagandeep, Advocate, for plaintiff. Defendants ex-parte.

It is ordered that suit of the suit filed by the plaintiffs succeeded and is hereby decreed with costs exparte for recovery of Rs.1,23,667/- (Principal amount) along with interest @ 9% per annum from non payment till the date of filing of the present suit and pendente lite and future interest @ 6% per annum till the realization of the decretal amount.”

4. Based thereupon, the petitioners filed execution application wherein, while providing list of properties of the judgment debtor, House No.2788 situated at Mohala Khatikhan, Opposite Dehli Gate, Bani Bazar, Near Bania Mohalla, Kartarpur, District Jalandhar, owned by the defendant No.2 Jawant Singh was mentioned. In the meanwhile, defendant No.2/judgment debtor expired and his sons namely Raminderjit Singh, Maninder Singh and Bhupinder Singh were impleaded as legal representatives. Aggrieved of the attachment qua the aforementioned property one of the sons, Maninder Singh filed objections before the

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Executing Court which came to be allowed vide order dated 07.12.2018 and the property/House bearing No.2788 as detailed hereinabove was exempted of attachment while holding it to be the only residential house.

5. The petitioner-decree holder was thus called upon to submit fresh list of properties owned by the judgment debtor. In pursuance thereof, the petitioner moved an application giving the details of another property No.2786, Mohala Khatikhan, Opposite Dehli Gate, Bania Bazar, Near Bania Mohalla, Kartarpur, District Jalandhar. Vide order dated 18.02.2019, the Executing Court ordered attachment of the aforementioned property bearing No.2786 and the sons of the judgment debtor were served with notices under order 21 Rule 66 CPC. Again Maninder Singh being one of the legal representative of deceased defendant No.2/JD No.2 filed an application seeking release of the said property from attachment while relying upon Section 60(1)(ccc) of the Code of Civil Procedure; claiming the same also being a residential house. The aforesaid objections were opposed at the instance of petitioner having filed detailed reply. However, the Executing Court vide order dated 07.08.2019 allowed the application filed on behalf of Maninder Singh. Faced with this, the petitioner approached the trial Court again by filing an application for re-calling while invoking Section 151 read with Section 152 of the Code of Civil Procedure, however, the said application was also declined vide order dated 26.02.2020. By way of present revision petitions both the aforesaid orders dated 07.08.2019 and 26.02.2020 have been assailed.

6. Learned counsel for the petitioners while relying upon the judgment in the cases of ***Gurdeep Singh Vs. Balbir Singh and others***



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2012 (4) RCR (Civil) 195, Shri K. L. Bawa Vs. M/s Basant Textiles 1982

(1) Rent LR 309, Pargat Singh and another Vs. Gurmail Kaur and

others RCR(Civil) 397 and Kailash Chander (Since Deceased) through

his Legal Representatives Vs. Raman Shahi 2016(2) RCR (Civil) 526,

submits that the exemption under Section 60(1)(ccc) of the Code of Civil Procedure was not available to Maninder Singh who happened to be one of the legal representative of the deceased Jaswant Singh/Defendant No.2/Judgment Debtor No.2 as it could only be claimed by the judgment debtor himself and not by his successors and as such orders passed by the Executing Court were liable to be set aside.

7. On the other hand, learned counsel appearing on behalf of respondents submits that since the property in question i.e. House No.2786 which got devolved upon Maninder Singh and his brothers from the deceased-father, he was also entitled for grant of exemption in terms of Section 60(1)(ccc) of the Code of Civil Procedure and thus, the impugned orders warrant no interference.

8. I have heard learned counsel for the parties and gone through the paper book.

9. A perusal of the records shows that decree in the present case was passed in favour of petitioners on 24.08.2016 and based thereupon execution was filed on 06.10.2016, however, for the past almost 8 years, the enforcement proceedings are pending adjudication. The defendant No.2/Judgment Debtor No.2 died soon after the passing of the decree dated 24.08.2016 and his sons being LRs were brought on record who claimed themselves to have inherited two properties i.e. House No.2786 and 2788 from their father and sought exemption qua attachment of those

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properties in terms of Section 60(1)(ccc) of the Code of Civil Procedure while claiming those to be sole residential house. In view of law laid down in the cases of *Gurdeep Singh Vs. Balbir Singh and others 2012 (4) RCR (Civil) 195*, *Shri K. L. Bawa Vs. M/s Basant Textiles 1982 (1) Rent LR 309*, *Pargat Singh and another Vs. Gurmail Kaur and others RCR(Civil) 397* and *Kailash Chander (Since Deceased) through his Legal Representatives Vs. Raman Shahi 2016(2) RCR (Civil) 526*, and also the conjoint reading of Section 2(10) and Section 60(1)(ccc) makes it clear that the protection from attachment of one main residential house under Section 60(1)(ccc) of the Code of Civil Procedure is merely available personally to the judgment debtor and would not pass on to his successors. In the given facts, sons of the judgment debtors merely having stepped into their shoes would not acquire the status of judgment debtor and thus not be entitled for protection under Section 60(1)(ccc) of the Code of Civil Procedure.

10. Moreover, even if it is presumed that both the properties i.e. House No.2786 and 2788 are of residential nature, once Maninder Singh had already drawn the benefit of exemption qua property No.2 i.e. House No.2788, the same benefit could not be made available to him with respect to another property i.e. House No.2786.

11. In view of the above, the present revision petitions are allowed and the impugned orders dated 07.08.2019 and 26.02.2020 passed by the Civil Judge (Junior Division)-cum-Executing Court, Jalandhar, are hereby set aside. Resultantly, the objections filed at the instance of Maninder Singh being the son of Jaswant Singh/Defendant No.2/Judgment Debtor No.2 with respect to the attachment of property No.2786 stand dismissed.



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The executing Court shall thus proceed as per law.

12. Pending applications, if any, shall stand disposed of.

(HARKESH MANUJA)
JUDGE

24.09.2024

anil

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