

**CR-4998-2023****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(204)****CR-4998-2023****Date of Decision: - 02.12.2024****Harbir Singh Dhillon****....Petitioner****Versus****M/s Metaltech Motors Pvt. Ltd.****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Samar Pratap Singh Ahluwalia, Advocate,
for the petitioner.

Ms. Divya, Advocate, for
Mr. Manoj Kumar Kashyap, Advocate
for the respondent.

*********VIKAS BAHL, J. (ORAL)**

1. Present revision petition has been filed under Article 226/227 of the Constitution of India for setting aside the order dated 17.02.2023 (Annexure P-1) passed by the Additional District Judge, Jalandhar whereby the objections filed by the petitioner in Execution petition have been dismissed. Challenge is also to the order dated 11.08.2021 vide which the application for amendment filed by the respondent decree holder has been allowed in the execution proceedings.
2. Learned counsel for the petitioner has submitted that a perusal of the judgment and decree dated 18.12.2009 would show that the respondent-plaintiff had filed a case against Harbir Singh Dhillon,

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Proprietor of M/s Kisan Tractors, Opposite Bus Stand, G.T. Road, Jalandhar, Punjab and an ex-parte decree was passed in his favour for a sum of Rs.13,93,322/- alongwith interest @ 6% per annum from the date of filing of the suit till its realization. It is further submitted that the said decree holder filed an execution petition and in the execution proceedings, prior to the service of the present petitioner, moved an application for amendment and vide the said amendment cleverly incorporated the name of the father of the petitioner, i.e. Harbirinder Jit Singh Dhillon as also the fact that he was proprietor of M/s Kissan Tractors. It is stated that even a third name was mentioned as H.S. Dhillon, Proprietor of M/s Kissan Tractors. It is argued that the said amendment which has been made is absolutely illegal as in the execution proceedings, the judgment debtor cannot be changed, more so, when the said Harbir Singh Dhillon and Harbirinder Jit Singh Dhillon are two separate persons and are in fact father and son. It is submitted that by moving the said application and getting the amendment done, the decree holder is now seeking to get the property of both the father and the son attached. It is further submitted that it is settled law that the Executing Court cannot go beyond the decree passed and thus, the amendment which has been carried out is illegal and deserves to be set aside. It is fairly submitted that in the present case, the petitioner would only limit his prayer to the challenge to the order dated 11.08.2021 vide which the amendment has been allowed.

3. Learned counsel for the respondent-decree holder has



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submitted that in the present case, the respondent had filed a case against Harbir Singh Dhillon and a decree had been passed, vide judgment and decree dated 18.12.2009 against said Harbir Singh Dhillon. It is further submitted that an application under Order 9 Rule 13 CPC was filed by father of Harbir Singh Dhillon i.e. Harbirinder Jit Singh Dhillon, which was dismissed and the same shows that father of the petitioner was well aware of the proceedings under Order 9 Rule 13 CPC. It is stated that the impugned order has been rightly passed and the same deserves to be upheld.

4. This Court has heard learned counsel for the parties and has perused the paper-book.

5. It is not disputed that the suit for recovery was filed by the respondent-plaintiff against Harbir Singh Dhillon, Proprietor of M/s Kisan Tractors, Opposite Bus Stand, G.T. Road, Jalandhar. The said suit was decreed vide judgment and decree dated 18.12.2009. The relevant part of the same is reproduced as under: -

*“In the Court of Sh. Bhupesh Kumar, Addl. District Judge-06
(WEST), DELHI.*

*Suit No.439/08
M/s Metaltech Motors Pvt. Ltd.
A-50 Road No.4
Mahipalpur Ext
New Delhi – 110037
(Through Sh. Rakesh Kumar
Duly Constituted attorney)*

....Plaintiff

Versus

Sh. Harbir Singh Dhillon



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*Proprietor
M/s Kisan Tractors,
Opposite Bus Stand,
G.T. Road,
Jalandhar, Punjab.*

....Defendant

*Date of institution : 18.7.08
Date of arguments : 18.12.09
Date of judgment : 18.12.09*

xxx xxx xxx

5. Accordingly, the suit of the plaintiff is decreed for a sum of Rs.13,93,322/- alongwith interest @ 6% per annum from the date of filing of the suit till its realization. Plaintiff shall also be entitled to cost of the suit. Decree sheet be prepared accordingly. File be consigned to record room.”

6. A perusal of the above would show that Harbir Singh Dhillon i.e. the present petitioner was made a party in the said suit and an ex-parte decree was passed against him. The execution was filed by the respondent-plaintiff and in the said execution, prior to the service of the present petitioner, an amendment was sought by virtue of which the name of the judgment debtor was sought to be changed. The changed memo of parties which followed in pursuance of the impugned order dated 11.08.2021 reads as under: -

“Amendment MEMO OF PARTIES

*M/s Metal Tech Motors
Pvt. Ltd.
Director Sh. J.B. Sehrawat,
A-50 Road No.4
Mahipalpur Ext
New Delhi – 110037*

....Decree Holder

Versus



*Harbir Singh Dhillon
Proprietor of M/s Kissan Tractors
s/o Shri Mehtab Singh Dhillon
Opposite Bus Stand,
G.T. Road,
Jallander, Punjab.*

*Harbirinder Jit Sintgh Dhillon
Proprietor of M/s Kissan Tractors
s/o Shri Mehtab Singh Dhillon
Opposite Bus Stand,
G.T. Road,
Jallander, Punjab.*

*H.S. Dhillon
Proprietor of M/s Kissan Tractors
s/o Shri Mehtab Singh Dhillon
Opposite Bus Stand,
G.T. Road,
Jallander, Punjab.”*

7. A perusal of the above would show that although the judgment and decree has been passed against Harbir Singh Dhillon, yet, the decree holder has sought to add Harbirinder Jit Singh Dhillon also as a party. It could not be disputed that Harbirinder Jit Singh Dhillon is the father of Harbir Singh Dhillon and the suit was filed only against one person i.e. Harbir Singh Dhillon and thus, the question of adding Harbirinder Jit Singh Dhillon in the execution does not arise. It is a matter of settled law that the Executing Court cannot go beyond the decree passed by the Court. It is the case of the petitioner that by adding the name of the father of the petitioner also, the respondent/decreed holder is trying to proceed against the property of both the petitioner as well as his father. The amendment thus sought was not in consonance with law and has apparently been incorporated only to create confusion.

8. Keeping in view the above-said facts and circumstances, the present revision petition is partly allowed and the impugned order dated 11.08.2021 (Annexure P-2), vide which the application filed by the respondent/decreed holder for amendment of the execution petition has been allowed, is set aside.

December 02, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes