

2024:PHHC:008171
**110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-6302-2019 (O&M)
Date of decision: 20.01.2024

Gurinder Singh

....Petitioner

Versus

Sukhjit Kaur and another

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. A.P.Kaushal, Advocate for the petitioner

Mr. Brahmjot Singh Nahar, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. The present case is result of marital discord between the parties. The petitioner herein is the husband of respondent No. 1 and father of respondent No. 2. The executing Court has dismissed the objection petition and ordered the recovery of maintenance by selling his house.

2. On 4th October, 2019, the following order was passed:-

*“The petitioner is present in Court today and he has placed on record copy of his aadhar card. He states that he ready to transfer half share of the house which is in his name, in favour of Ritugeet Kaur, who is minor to secure her future. An affidavit to this effect has been filed in Court today itself. Keeping in view that minor will have half of the house in her name and the matter can be settled amicably, operation of the impugned orders dated 16.09.2019 (Annexure P-1 and P-2) is stayed.
Notice of motion for 04.12.2019.”*

3. The petitioner has filed an affidavit to this effect in the Court. Learned counsel representing the petitioner submits that the

petitioner is still ready to handover ownership as well as possession of half share of his residential house to his daughter namely Ms. Ritugeet Kaur- respondent No. 2.

4. The respondent No. 1 along with her learned counsel is present in the Court. She accepts the aforesaid offer.

5. Keeping in view the aforesaid facts of the case, Ritugeet Kaur daughter of Sh.Gurinder Singh is declared to have become owner of half share of the house. The Executing Court is directed to appoint a Local Commissioner to divide the house into two equal shares and hand over the possession of the same to Ritugeet Kaur, within a period of one month starting from today. It is made clear that if the petitioner creates any obstruction, the executing court will take the help of the police. After receipt of the report from the Local Commissioner, the Executing Court shall pass a final decree of partition of the property by metes and bounds, in order to resolve the controversy once for all.

6. At this stage, the learned counsel representing the petitioner submits that the respondent shall be asked by the Court to withdraw all the litigations pending against him. This Court has tried to impress upon the respondent, however, she submits that she is an uneducated lady and she has no source of income. It is evident that in the order dated 4th October, 2019, the petitioner unequivocally stated that he is prepared to transfer half share of his residential house to his daughter i.e respondent No.2. The petitioner is bound by his statement.

He cannot subsequently put additional conditions to the statement that was unconditional at the time of making it.

7. This Court has heard the arguments of the learned counsel representing the parties at length. The petitioner claims exemption from attachment and sale of his only residential house under section 60 (1) (ccc) as amended by the States of Punjab, Haryana and UT, Chandigarh. The aforesaid exemption is with respect to the only residential house in possession of the judgment debtor. It is evident that before the Executing Court, the respondent submitted that the petitioner is owner of yet another house in Chandigarh. On 6th September, 2019, the petitioner was directed to produce a copy of his Aadhar Card and other residential proof on the next date of hearing. However, on the next date of hearing, rather than producing the aforesaid documents, he submitted that the said documents have been lost. The respondent produced the petitioner's Aadhar card to show that his residential address is H.No.1772, Phase V, SAS Nagar, Mohali. Furthermore, when the summons was sent to the petitioner as at his residential house located in Khanna, the report came that the petitioner is not residing there. Thus, it is evident that the house at Khanna is not the only residential house of the petitioner. Moreover, the decree to pay arrears of maintenance in favour of respondents creates a charge on the property of the judgment debtor of the petitioner. Hence, Section 60(1)(ccc) is not applicable to the facts of the present case. Consequently, the revision petition is dismissed. However, in view of the dismissal of the revision petition,

the preceding order with regard to passing of the decree in favour of respondent no.2 shall remain unaffected.

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

20.01.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE