



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

**CR-717-2024 (O&M)
DECIDED ON: 02.12.2025**

KULWINDER SINGH AND ANOTHER

.....PETITIONERS

VERSUS

NARINDER KAPOOR AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Manjot Singh Rai, Advocate (through hybrid mode)
for the petitioners.

MANDEEP PANNU, J (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India assailing the order dated 04.12.2023 passed by the learned MACT/Executing Court, SAS Nagar, Mohali, whereby the objections filed by the petitioners, who are third-party objectors, against attachment of the share of the judgment debtor Lakhbir Singh have been dismissed.

2. Learned counsel for the petitioners contends that they are co-sharers and real brothers of the judgment debtor and that the house under attachment is a joint family residential house in which about fifteen members of the family reside together. It is further asserted that the house stands on joint property which has never been partitioned and, therefore, no exclusive share of the judgment debtor exists that could be attached. It is further pleaded that one of the co-sharers had taken a bank loan in the year

2015 on the basis of the same property and, thus, the mortgage would have precedence. The petitioners also contend that no separate notice of attachment was served upon them at the relevant time and the Executing Court has erred in drawing conclusions regarding construction on the attached portion and the area of the house. They further rely upon Section 60(1)(ccc) CPC stating that the house in question is the main residential house of all co-sharers including the petitioners and, therefore, it is exempt from attachment.

3. The matter being limited in scope and involving a short question of law, no notice was considered necessary to be issued to the respondents.

4. I have heard learned counsel for the petitioners and perused the impugned order and the entire record. The Executing Court has recorded in detail that similar objections had already been raised by the judgment debtor Lakhbir Singh himself and the same were dismissed vide order dated 20.12.2022. Thereafter the matter was fixed for issuance of notice under Order 21 Rule 66 CPC when the present objections were filed through the real brothers of the judgment debtor on the same grounds. The Executing Court has returned a clear finding that the house stands on land which is recorded in the *jamabandi* as having 1/54th share of the judgment debtor and his brothers. The *jamabandi* showing mutation of inheritance in favour of the judgment debtor and his brothers was taken into consideration. The documents on record also show that vide order dated 30.01.2018 passed by the learned District Judge, SAS Nagar, Mohali, 1/54th share of the judgment debtor was specifically attached for recovery of the MACT award. The

Executing Court has further noticed that the MACT award dated 15.12.2016

has remained unpaid for years and the decree holders have been waiting endlessly for the execution of the award, and that one of the decree holders, Narinder Kapoor, is a cancer patient with three minor children who are wholly dependent on the compensation.

5. The Executing Court has also observed that the objections raised by the petitioners are nothing but an attempt to delay the execution proceedings. The contention of the petitioners that the house was constructed after attachment was found incorrect upon scrutiny of the documents, as no such fact is reflected in the *jamabandi* entries and, instead, the family has been residing there for long. The claim that the property is exempt under Section 60(1)(ccc) CPC was rightly rejected in view of the fact that only the 1/54th undivided share of the judgment debtor has been attached and the exemption under Section 60(1)(ccc) CPC applies to the “one main residential house” belonging exclusively to the judgment debtor. The judgment debtor in the present case is only a co-sharer and his fractional share is liable to attachment under law. The Executing Court has also noticed that the mortgage created in 2015 would not defeat the right of the decree holder under the MACT award when only the undivided share of the judgment debtor has been attached, particularly when the mortgagee has not come forward to assert any competing interest in execution and the attachment is not of the entire house but only of the judgment debtor’s share.

6. The findings of fact recorded by the Executing Court have been derived from the *jamabandi* entries, mutation records, earlier orders passed in the execution proceedings and the documents produced on record. There is no perversity or misreading that warrants interference under Article 227 of the Constitution of India. The petitioners have not been able to show that the

judgment debtor possesses no attachable interest. On the contrary, the *jamabandi* unequivocally records the 1/54th share of the judgment debtor which stands attached by a prior judicial order and remains valid. The plea regarding lack of notice under Order 21 Rule 66 CPC is also ill-founded in view of the fact that the judgment debtor himself had earlier participated in the execution proceedings, filed objections which were dismissed, and the present petitioners, being his brothers, are clearly acting in concert to delay execution rather than assert any independent legal right. In supervisory jurisdiction, this Court does not sit as an Appellate Court to re-appreciate facts merely because another view is possible. The order of the Executing Court is based on correct appreciation of facts as well as settled legal principles relating to attachment of undivided share of a co-sharer.

7. In view of the above discussion, I find no infirmity, illegality or perversity in the impugned order dated 04.12.2023 passed by the learned MACT/Executing Court, SAS Nagar, Mohali. The revision petition, being devoid of merit, is accordingly dismissed.

8. All pending miscellaneous application(s), if any, stands disposed of.

02.12.2025

Poonam Negi

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No