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

(110)

CR-809-2025

Date of Decision: - 07.02.2025

Jatinder Arora**....Petitioner****Versus****Amit Mehta****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Tarun Sarin, Advocate, and
Ms. Ridha Dhawan, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 06.11.2024 (Annexure P-4) passed by the Civil Judge (Senior Division), Ludhiana in Civil Suit No.3380 of 2023 titled as “Amit Mehta Vs. Jatinder Arora”, whereby the application filed by the respondent under Order 38 Rule 5 CPC has been allowed and the petitioner was directed to furnish security in the shape of “surety bond” to the tune of Rs.13,00,000/-.

2. On a pointed query raised by this Court with respect to what transpired subsequent to the order dated 06.11.2024 and as to why the petitioner has approached the Court after a delay of more than three



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months, more so, when the impugned order dated 06.11.2024, reads as under:-

“8. Accordingly, the defendant is directed to furnish the security in the shape of surety bond to the tune of ₹13,00,000/- within 15 days from the date of this order, failing which the property of the defendant as detailed hereinabove is ordered to be attached before judgment. The application filed by the plaintiff under Order 38 Rule 5 CPC stands allowed accordingly.”

3. Learned counsel for the petitioner has submitted that the petitioner had filed a review application of the order dated 06.11.2024, which was subsequently dismissed. However, neither the review application has been annexed nor the dismissal order has been annexed alongwith the present petition nor the said order has been challenged. Even no reference has been made to the factum of filing the review application and the dismissal of the same in the present revision petition.

4. Learned counsel for the petitioner has further submitted that the property which is sought to be attached does not belong to the present petitioner and for the said purpose, the statement made by counsel for the defendant/present petitioner dated 22.10.2024 has been referred to.

5. It is not disputed before this Court that in the application dated 23.03.2024 filed by the respondent/plaintiff under Order 38 Rule 1 and Rule 5 and Order 39 Rules 1 and 2 and Section 151 CPC for arrest and for attachment, there was a specific mention of House No.37, Thaper Nagar, Lane No.2, Ludhiana, Punjab, which was sought to be attached, whereas, in the reply dated 16.08.2024, there was no averment that the



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said property does not belong to the petitioner. Moreover, even a perusal of the impugned order dated 06.11.2024 would show that in para 5, arguments raised on behalf of the present petitioner have been noticed but there is no argument raised that the property which is sought to be attached is not in the ownership of the petitioner, rather it has been argued by the petitioner that no stay can be granted against him to alienate the property and no injunction can be granted against a true owner. It would be further relevant to note that if the argument raised on behalf of the petitioner to the effect that the property which is sought to be attached does not belong to the petitioner is taken on face value, then, the petitioner would have no *locus standi* to challenge the attachment of the property in question.

6. In the present case, although the plaint and the written statement has not been annexed but a perusal of the impugned order dated 06.11.2024 would show that it was the case of the respondent/plaintiff that the present petitioner had approached the plaintiff for taking financial assistance of Rs.12,00,000/- for his domestic needs and that the petitioner had assured that he would return the said amount and had also issued four cheques bearing nos.015156, 015157, 015158, 015159 all dt. 01.10.2022 for an amount of Rs.3,00,000/- each drawn on HDFC Bank Ltd. Dugri, Phase-II, Ludhiana in favour of plaintiff. It was further the case of respondent/plaintiff that the said cheques were dishonored by the Bank vide memo dated 26.10.2022 with a remark "Fund Insufficient" and thus, the suit for recovery of Rs.12,96,000/- alongwith interest was filed. It was



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also the case of the respondent/plaintiff that the defendant was threatening to leave India and to alienate his property in order to avoid payment in case the suit of the plaintiff/respondent is decreed and that if no order of attachment is passed at this stage, the respondent/plaintiff would not be able to recover the amount from the present petitioner. It is on the basis of the said pleas that the trial Court, after taking into consideration the provisions of Order 38 Rule 5 CPC, had rightly passed the impugned order. From the pleadings of the parties, it is apparent that the respondent/plaintiff has a *prima facie* case in his favour and in the said circumstances, the impugned order has been rightly passed by the trial Court.

7. Keeping in view the above-said facts and circumstances, the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

February 07, 2025

naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No