



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

113+201

CR-1995-2024 (O&M)
Date of Decision: 23.12.2025

Nafe Singh

....Petitioner

Versus

Naresh Kumar

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Arman Goyal, Advocate
for the petitioner.Mr. B.S. Rathee, Advocate
Mr. Vijay Deep Rathee, Advocate
for the respondent.Mr. Suraj Mandhan, Advocate
for Auction Purchaser.

NIDHI GUPTA, J.CM-22927-CII-2025

Present application under Order 1 Rule 10 has been filed by the Sandeep Kumar Auction Purchaser of the suit property for impleading him as respondent No.2 being necessary and proper party.

It is prayed that the present application be allowed and applicant be impleaded as party respondent No.2 being necessary and proper party.

Heard.

The present dispute is between judgment debtor and the decree holder with regard to the identity of the decree holder. In view of



the order passed in the main Revision Petition, present application stands **dismissed**. The applicant is at liberty to pursue his rights in accordance with law before the learned Executing Court.

CM-22928-CII-2025

Present application under Section 151 CPC has been filed by the proposed respondent No.2 seeking modification of order dated 04.04.2024 passed by a Co-ordinate Bench of this Court.

Heard.

In view of the fact that the application for impleadment bearing No.CM-22927-CII-2025 filed by the applicant has been dismissed, present application is also **dismissed**.

MAIN CASE

Present Revision Petition has been filed by the judgment-debtor under Article 227 of the Constitution of India for setting aside the order dated 22.03.2024 (Annexure P14) passed by the learned Additional Civil Judge (Senior Division), Gaur in Execution Petition (EXE-34-2018) whereby on the basis of affidavit filed by the respondent/plaintiff/decreed holder i.e. Naresh Kumar, he/Naresh Kumar and Narender Singh have been considered to be one and the same person; and it has been directed by the learned Executing Court to deposit the decretal amount in the bank account of said Narender Singh without there being any proof.

2. It is inter alia submitted by learned counsel for the petitioner that vide the impugned order, the learned Executing Court has allowed the application filed by the present respondent for amendment in the



Award/Decree by granting permission to the respondent to amend the plaint on the ground that name of the respondent-plaintiff was wrongly mentioned in the plaint as “Naresh Kumar” instead of “Narender Singh son of Prithi Singh” due to typographical mistake. It is submitted that the amendment has been allowed by the learned Executing Court merely on the basis of an affidavit filed by the respondent. Even no opportunity was granted to the petitioner to rebut the said assertion of the respondent. Moreover, it has been wrongly observed by the learned Executing Court in the impugned order that the petitioner has never objected to the identity of Naresh Kumar and Narender Singh being one and the same person. Learned counsel refers to the reply (Annexure P12) filed by the petitioner to the amendment application (Annexure P11) filed by the respondent, wherein the petitioner has strongly controverted the fact that Naresh Kumar and Narender Singh are one and the same person. It is pointed out that since 2012, the respondent has not disputed rather, has perpetuated his identity as Naresh Kumar. All proceedings filed by the respondent against the petitioner have been as ‘Naresh Kumar’. However, in 2024, the respondent has suddenly claimed to be Narender Singh. It is contended that even otherwise, the Award is passed in favour of Naresh Kumar. As such, the decretal amount cannot be released in favour of Narender Singh. It is accordingly prayed that the present Revision Petition be allowed, and the impugned order be set aside.

3. Per contra, learned counsel for the respondent opposes the submissions made on behalf of the petitioner and submits that



respondent had duly submitted his affidavit before the learned Executing Court stating that Naresh Kumar and Narender Singh are one and the same person. The respondent has also produced his proof of identity in the form of Aadhaar Card, Ration Card, etc. before this Court to prove that Naresh Kumar and Narender Singh are one and the same person. It is pointed out that for this reason, the respondent has filed CM-7629-CII-2024 for recalling/vacation of stay granted by this Court vide order dated 04.04.2024. Along with the said application, the respondent has placed on record copies of his Voter Card, Ration Card, Matriculation Certificate, Aadhaar Card, PAN Card and Bank Account (Annexures A1 to A6), which establish that respondent/plaintiff/decreed holder Naresh Kumar is the same person as Narender Singh. Therefore, there can be no ambiguity with regard to the identity of the respondent as Narender Singh. Moreover, the petitioner and respondent are from the same village and are well known to each other from their birth and therefore, there can be no dispute of identity. It is accordingly prayed that the present Revision Petition be dismissed.

4. Learned counsel for the proposed-respondent no.2/applicant in CM-22927-CII-2025 and CM-22928-CII-2025, inter alia submits that in the Execution Petition No.34 dated 23.08.2018, as petitioner was unable to pay the amount awarded vide Award dated 07.04.2018, the learned Executing Court had issued notice to the petitioner under Order 21 Rule 66; whereafter Warrant of Sale of Properties of the petitioner was issued vide order dated 21.09.2019 (Annexure A1). It is submitted that pursuant



to the same, the applicant was successful in the auction sale and had deposited Rs.6,50,000/- i.e. 25% of the total sale amount before the Halqa Girdawar and Halqa Patwari in the presence of Court Auctioneer vide Court order dated 20.03.2023 (Annexure A2). It is pointed out that on 27.03.2023, the applicant had also deposited the remaining amount of Rs.19,50,000/- in the Court. As such, total sale amount/auction amount stood deposited by the applicant. Accordingly, vide order dated 27.03.2023 (Annexure A3) the Executing Court had appointed a Local Commissioner to get the Sale Certificate issued in favour of the applicant; whereafter Sale Deed was filed in the Court on 31.05.2023 (Annexure A4); which was approved by the Court after necessary correction vide order dated 20.07.2023 (Annexure A5). Pursuant to the same, on 09.08.2023, Local Commissioner placed on record the Sale Deed executed by him in favour of the applicant/Auction Purchaser (Annexure A6).

5. It is submitted that however, in the interregnum, as a dispute had arisen in regard to the name of the decree holder, the proceedings before the Executing Court were stayed by Co-ordinate Bench of this Court vide order dated 04.04.2024. It is accordingly prayed that CM-22927-CII-2025 filed under Order 1 Rule 10 CPC be allowed and the applicant/Auction Purchaser be impleaded as a party to the present proceedings; and CM-22928-CII-2025 be allowed and the order dated 04.04.2024 passed by the Co-ordinate Bench staying proceedings before the learned Executing Court be modified.



6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in great detail.

7. A perusal of the file shows that the chronological sequence of events is as follows: -

14.9.2012: The petitioner had mortgaged his share in the agricultural land without possession to the respondent for an amount of Rs.7,85,000/- vide registered Mortgage Deed No.3367 dated 17.09.2012 (Annexure P1). In the said Mortgage Deed, name of the respondent/mortgagee was mentioned as “Naresh Kumar son of Prithi Singh son of Lahri, resident of village Ahulana, Tehsil Gannaur, District Sonipat.” On the said Mortgage Deed, the respondent has affixed his left thumb impression as “Naresh Kumar, Mortgagee”.

15.10.2012: Accordingly, in the Revenue Record/Jamabandi for the year 2009-10 (Annexure P-2), necessary information with respect to the mortgage was incorporated vide Report No.86 dated 15.10.2012, to the effect that *“Nafe Singh S/o Shoram mortgaged without possession ½ part total measuring 6K-11M to Naresh Kumar S/o Pirthi Singh upto 13.09.2013...”*

23.10.2013: Thereafter, the respondent had filed petition titled as “Naresh Kumar son of Prithi Singh Vs. Nafe Singh” under Section 8 of the Bengal Land (Redemption and fore-closure) Regulation XVIII of 1806 for fore-closing the mortgage and rendering the conditional mortgage as sale absolute on 23.10.2013 (Annexure P3).



9.3.2015: Thereafter, respondent had filed Civil Suit No.77 dated 09.03.2015 (Annexure P4) titled as “Naresh Kumar son of Prithi Singh Vs. Nafe Singh” for declaration and possession in respect of the above-mentioned Mortgage Deed. The petitioner had filed written statement (Annexure P5) to the said Civil Suit.

7.4.2018: The said Civil Suit was finally decided between the parties vide Award dated 07.04.2018 (Annexure P7) passed by Daily Lok Adalat on the basis of statement (Annexure P6) made by the parties regarding their compromise. A perusal thereof shows that respondent has recorded his statement as “Naresh Kumar” as follows: -

“Stated that we have arrived at compromise and as per compromise with in three months defendant will pay 14 lacs to the Plaintiff on which both the parties are agreed and is bounded by the same. The suit may be decided as per compromise and award be passed.

Sd/- Naresh Singh

Sd/ Nafe Singh”

8. Pursuant to the same, Award dated 07.04.2018 (Annexure P7) was passed by the learned Additional Civil Judge (Senior Division), Ganaur, whereby suit of the respondent Naresh Kumar, was decreed in the following terms:-

“10. The parties are no longer at issue on any question of law and facts, therefore, the suit of the plaintiff succeeds as per their joint statement of even date and compromise and an award is passed in terms of the same. The parties shall remain bound down by their joint statement made before this court. It is also made clear that this award shall not affect the



rights, if any, of the third parties in respect of Suit Land. The parties are left to bear their own costs. File be consigned to the record room after due compliance.”

23.8.2018: However, as the petitioner was unable to pay the awarded amount, the respondent filed Execution Petition No.34 dated 23.08.2018 titled as “Naresh Kumar Vs. Nafe Singh”.

21.8.2023: In the said Execution Petition, the respondent filed an application in the year 2023 titled as “Naresh Kumar Vs. Nafe Singh” claiming interest on the decretal amount. The said application of the respondent was dismissed by the learned Executing Court vide order dated 21.08.2023 (Annexure P9), as follows: -

“4. Perusal of the file shows that the sale deed in the name of auction purchaser has already been registered in the present case. The decretal amount in the present case is Rs.14 lacs as clear from the award dt. 07.04.2018. Accordingly, the decretal amount of Rs.14 lacs be released in favor of the DH forthwith, from the total sale consideration of Rs.26 lacs paid by the auction purchaser in the present case through E-challan on the case file VOD 21.03.2023 and order dt. 27.03.2023. The balance sale consideration i.e. Rs.12 lacs be released in favor of the JD Nafe Singh on the proper application as and when he would apply for the same as per rules. The Civil Ahlmad is directed to do the needful. To come up on 04.09.2023 for above payment and compliance.”



12.9.2023: Against the said order dated 21.08.2023, the respondent filed Civil Revision No.5502 dated 12.09.2023 titled as “Naresh Kumar Vs. Nafe Singh” (Annexure P10) before this Court which is still pending.

9.2.2024: It is at this stage that the respondent filed the instant application dated 09.02.2024 (Annexure P11) before the learned Additional Civil Judge (Senior Division), Ganaur dated 09.02.2024 (Annexure P11) *“under section 151, 152, 153 of C.P.C. for amendment in the award by way of granting permission to amend the plaint.”* The respondent sought amendment of the Award by way of granting permission to the respondent to amend the plaint on the ground that name of the respondent was wrongly mentioned as Naresh Kumar instead of Narender Singh son of Parthi Singh due to typographical mistake in the plaint. Perusal of the said application shows that in Para 2 thereof, the respondent has stated as follows:-

“2. That actual name of applicant/plaintiff is Narender Singh S/o Parthi Singh but due the over sight of counsel and typographical mistake in the plaint the name of applicant/plaintiff was mentioned as Naresh Kumar instead of Narender Singh S/o Parthi Singh. So, the name of applicant/plaintiff need to be rectified as Narender Singh S/o Parthi Singh in place of Naresh Kumar.”

29.2.2024: The said application was strongly resisted/opposed by the petitioner vide reply dated 29.02.2024 (Annexure P12).

21.3.2024: However, on 21.03.2024 (Annexure P-13), the present respondent filed an affidavit claiming Naresh Kumar and Narender Singh



to be the one and the same person without supplying a copy to the present petitioner and the matter was adjourned for 22.03.2024.

22.3.2024: On 22.03.2024, the respondent withdrew his amendment application (Annexure P11) by recording his statement; whereupon vide the impugned order dated 22.03.2024 (Annexure P14), the learned Executing Court directed all the concerned officials to disburse the decretal amount in the account of Narender Singh considering Naresh Kumar and Narender Singh to be one and the same person. The above-said application of the respondent has been allowed by the ACJ (SD), Ganaur vide impugned order dated 22.03.2024 on the following grounds:-

“...In fact the above award was passed on the basis of the statement of the parties regarding their compromise whereby the defendant agreed to pay Rs.14,00,000/- to the plaintiff within 3 months. After the above award, the defendant did not pay the money to the DH and consequently, he filed the present execution petition on 13.08.2018. Since, the beginning of the litigation the defendant never disputed the identity of the DH as clear from the file. However, the contention of the DH that in his bank record his name is mentioned as Narender Singh S/o pirthi Singh whereas Naresh Kumar and Narender Singh are one and the same person, seems to be genuine and therefore, vide this order the Court directs all the concerned officials to disburse the pending amount of Rs.14,00,000/- deposited in the present case vide challan dated 21.03.2023 and 27.03.2023 in the treasury in the account of Narender Singh S/o Pirthi Singh R/o Village Ahulana i.e. the DH in the present case in pursuance of order of this Court forthwith. The Civil Ahlmad is directed



to file his compliance report in the present matter on 30.03.2024 positively.”

9. The above facts speak for themselves. It is clear that since 2012, the respondent has pursued the long litigation as Naresh Kumar. It is only in 2024, that the respondent has claimed to be Narendra Singh. Furthermore, it is not disputed that Award has been passed in favour of ‘Naresh Kumar son of Prithi Singh’. As such, the decretal amount can only be released in favour of ‘Naresh Kumar son of Prithi Singh’; and not in favour of ‘Narendra Singh, son of Parthi Singh’. It is but trite law that the Executing Court cannot go beyond the decree. On repeated Court queries, the learned counsel for the respondent is unable to satisfy this Court as to why if Naresh Kumar and Narendra Singh are one and the same person, then why can respondent not accept the decretal amount as Naresh Kumar, learned counsel respondent has no reply.

10. It has been contended on behalf of learned counsel for the respondent/decreed holder and it has been recorded in the above-said order that the petitioner has not disputed the identity of the respondent. The said observation in the impugned order is factually incorrect; as a perusal of the reply dated 29.02.2024 (Annexure P12) filed by the petitioner to the application for amendment of Award filed by the respondent, shows that the petitioner has vociferously and strongly resisted the application of the respondent. The petitioner has categorically stated in his reply that respondent has pursued all litigation including the plaint, the statement made at the time of passing of Award,



the Civil Revision, etc. against the petitioner as 'Naresh Kumar'. However, after 12 years from the date of filing of plaint on 09.03.2015 and execution of Mortgage Deed dated 17.09.2012, the respondent has suddenly filed instant application seeking amendment of the Award itself while, stating himself to be Narendra Singh. Observation of the Executing Court that the petitioner has not disputed the identity of the respondent, is incorrect. Even further, the impugned order has been passed without providing an opportunity to the petitioner to rebut the affidavit dated 22.03.2024.

11. Even otherwise, learned Executing Court in the impugned order has only stated that contention of the respondent that Naresh Kumar and Narendra Singh are one and the same person, "*seems to be genuine...*". The said reasoning is merely conjectural and does not appear to be based on facts. From the record, it does not appear that any documents as proof of identity were produced by the respondent before the learned Executing Court. There is no mention in the impugned order of the learned Executing Court that any documents were produced by the respondent in respect of his identity as "Narender Singh". Even assuming some documents were produced, the correctness of the same does not appear to have been verified by the learned Executing Court before passing the impugned direction. In such an eventuality, passing of the impugned direction cannot be sustained.

12. In view of the discussion above, I find the impugned order to be unsustainable. Needless to say, the rights of the Auction Purchaser shall be decided by the learned Executing Court in accordance with law.

13. In view of the above, present revision petition is **allowed**.
14. Pending application(s), if any, shall stand(s) disposed of.

23.12.2025
Sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No