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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3804-2024

Date of decision: 20.11.2025

SRS RESIDENCY RESIDENTS WELFARE ASSOCIATION

...Petitioner(s)

VERSUS

INTELLICARE

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Pradeep Duhan, Advocate and
Mr. Anurag Mor, Advocate for
Dr. Pankaj Nanhera, Advocate for the petitioner.

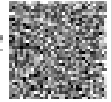
Mr. Ashish Kaul, respondent in person.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 15.04.2024 (Annexure P-3) passed by the learned Additional District Judge, Faridabad, vide which the application moved by the petitioner for setting aside the ex-parte order dated 29.11.2023 (Annexure P-1) has been dismissed.

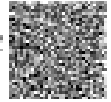
2. In pursuance of the order dated 24.07.2025, a demand draft of Rs.10,000/- in the name of the respondent has been brought in the Court today by the learned counsel for the petitioner and the same has been handed over to Mr. Ashish Kaul, respondent in person, during the course of proceedings.

3. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner is the Judgment Debtor against whom an



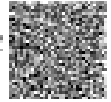
award was passed by the learned Arbitrator. He submitted that the objections filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996, were also dismissed. He submitted that the petitioner did not prefer any appeal under Section 37 of the Arbitration and Conciliation Act, 1996. He further submitted that thereafter, an execution application was filed by the respondent before the learned Executing Court, in which notice was issued to the petitioner. He further submitted that the petitioner engaged a Counsel for the date which was fixed on 29.11.2023, but the Counsel did not appear because of wrong noting of the date and in this way, on the same date i.e. 29.11.2023, the petitioner was proceeded against *ex parte* and the learned Additional District and Sessions Judge-I, Faridabad, directed that warrant of attachment of the account of the petitioner be issued. He further submitted that on coming to know about the aforesaid order, the petitioner diligently and forthwith filed an application for setting aside of the same and the said application was filed on 02.12.2023 vide Annexure P-2 i.e., just after three days of passing of the order vide which he was proceeded against *ex parte*. He further submitted that thereafter, 2-3 hearing dates had passed but the matter was adjourned. However, by way of the impugned order dated 15.04.2024 (Annexure P-3), the learned Executing Court dismissed the application filed by the petitioner seeking setting aside of the *ex parte* order dated 29.11.2023.

4. While referring to the aforesaid impugned order (Annexure P-3), learned counsel appearing on behalf of the petitioner submitted that the reason as to why the aforesaid application was dismissed by the learned Additional District Judge, Faridabad, was that the petitioner had neither produced a



photocopy of the case diary of the learned Counsel nor filed any affidavit. He further submitted that so far as the decretal amount is concerned, the petitioner has already paid the same but the dispute is now with regard to the interest component and the accounts of the petitioner have also been attached. He also submitted that be that as it may, since the petitioner acted with due diligence and moved an application for setting aside the *ex parte* order just three days after being proceeded against *ex parte*, he has a right to contest the execution application so that the same can be adjudicated with the assistance of both the parties and in accordance with law and therefore, the aforesaid impugned order is liable to be set aside.

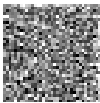
5. On the other hand, Mr. Ashish Kaul, the respondent appearing in person, submitted that the petitioner has not acted in a *bona fide* manner in view of the fact that even after he moved an application for setting aside the aforesaid order dated 29.11.2023, whereby he was proceeded against *ex parte*, he sought 2-3 adjournments and due to this conduct, he is not entitled to contest the execution filed by the respondent and therefore, the present petition may be dismissed. He also referred to the aforesaid impugned order (Annexure P-3) and submitted that had there been any confusion on the part of the learned Counsel, as alleged by the petitioner, then he could have produced on record the case diary of the learned Counsel or any affidavit but the same was not produced and therefore, the learned Additional District Judge, Faridabad, has rightly dismissed the application filed by the petitioner by way of the aforesaid impugned order (Annexure P-3). He also submitted that the decretal amount has not been paid to the respondent.



6. I have heard the learned counsel appearing on behalf of the petitioner as well as the respondent, who is appearing in person.

7. The petitioner is the Judgment Debtor and the respondent is the Decree Holder. It was the contention of the learned counsel for the petitioner that the decretal amount has been paid, whereas it was the contention of the respondent appearing in person that the decretal amount has not been paid. A perusal of the order dated 29.11.2023 (Annexure P-1) would show that the petitioner-judgment debtor was issued a notice but despite being served the petitioner did not appear and was proceeded against *ex parte* and it was directed that warrant of attachment of the account of the petitioner be issued. A perusal of Annexure P-2 would show that after just three days i.e. on 02.12.2023, the petitioner filed an application for setting aside the aforesaid *ex parte* order dated 29.11.2023. A perusal of the impugned order (Annexure P-3) would show that the ground which has been taken by the petitioner was that the learned Counsel, whom he had engaged had noted down the wrong date as 02.12.2023 instead of 29.11.2023 and this was a *bona fide* mistake. The learned Executing Court vide impugned order did not rely upon the aforesaid contention of the petitioner on the ground that neither the case diary of the learned Counsel nor any affidavit was produced.

8. This Court is of the considered view that be that as it may, even if the case diary of the learned Counsel or an affidavit was not produced, but at the same time, the learned Executing Court was still required to consider the totality of the facts and circumstances. The *ex parte* order was passed on 29.11.2023 (Annexure P-1) and the application for setting aside the aforesaid



ex parte order was moved by the petitioner just after three days i.e. on 02.12.2023 and that itself is sufficient to show the *bona fide* conduct of the petitioner. Had it been a case of an inordinate delay on the part of the petitioner in filing the application, then the situation would have been different but a perusal of the aforesaid application (Annexure P-2) would show that *bona fide* conduct of the petitioner cannot be disputed on the aforesaid ground, which forms the basis of the impugned order.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 15.04.2024 (Annexure P-3) passed by the learned Additional District Judge, Faridabad, is hereby set aside, subject to payment of Rs.10,000/- (Rupees Ten Thousand) as costs, which shall be paid by the petitioner to the respondent, on the next date of hearing before the learned Executing Court.

(JASGURPREET SINGH PURI)
JUDGE

20.11.2025
Chetan Thakur

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No