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

CR-7628-2023 (O&M)

Date of Decision : 25.02.2025

Kamla Devi

... Petitioner(s)

Versus

Rameshwar Dass

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mohit, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed challenging the orders dated 13.10.2023 (Annexure P1) and 13.10.2023 (Annexure P2).
2. Brief facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for recovery of ₹12,00,000/- alongwith 18% interest. The suit was decreed vide judgment and decree dated 01.07.2016 for ₹12,00,000/- alongwith interest @ 6% per annum from the date of filing of the suit till realization. An appeal was preferred by the petitioner herein which was dismissed by the First Appellate Court vide judgment and decree dated 23.04.2019. The respondent filed an execution on 21.09.2016. Vide order dated 31.05.2022 warrants of attachment of the property were issued. The daughter of the petitioner filed her objections which were dismissed by the Executing Court on 15.09.2023. An appeal filed by the daughter of the petitioner is pending before the First Appellate Court. On 15.09.2023 the Executing Court issued warrants of sale. The said order dated 15.09.2023 was not challenged by the petitioner herein. The auction took place on

05.10.2023 in which the petitioner nor her other family members chose not to participate. Subsequently after the auction had been conducted on 05.10.2023 and the sale had been finalized, an application was filed on behalf of the judgment debtor for setting aside the auction on the ground that proper procedure was not followed and that no opportunity was given to the judgment debtor and her son to participate in the auction. Vide the order dated 13.10.2023 (Annexure P1) the objections were dismissed holding that the execution petition was filed on 07.10.2016 and despite a period of 7 years having elapsed the judgment debtor did not bother to comply with the judgment and decree. It was also observed that the son and daughter of the petitioner had appeared in the capacity of third party and had been repeatedly filing applications in order to delay the proceedings. The Court while passing the order dated 13.10.2023 (Annexure P1) read the detailed report submitted by the auctioneer – Sh. Sanjay Sharma – who happens to be an Advocate by profession and was satisfied that the public auction had been carried out in accordance with the order of the Court. Vide an order of even date, the execution was also disposed off as being fully satisfied. Aggrieved by the same, the present revision petition has been filed.

3. Learned counsel for the petitioner would contend that the petitioner had filed an application for setting aside the auction on the ground that the value of the property was higher than the price at which it was auctioned. It was further stated that the son of the petitioner was willing to bid for the property however the application was dismissed by the Executing Court. It is further the contention that half of the property is owned by the son of the petitioner and therefore it will be inconvenient for the son of the

petitioner if half of the property is in possession of a third party.

4. I have heard the learned counsel for the petitioner.

5. In the present case, vide judgment and decree dated 01.07.2016 the suit for recovery of ₹12,00,000/- was decreed. The appeal was also dismissed by the First Appellate Court vide judgment and decree dated 23.04.2019. The execution was pending since 07.10.2016 and the petitioner herein made no effort to satisfy the judgment and decree. Rather, in order to delay the proceedings, various applications were filed by the son and daughter of the petitioner in the capacity of third party. The petitioner, her son and daughter who now the petitioner claims were ready to bid for the property chose not to participate in the auction on the ground that munadi was not carried out properly. It is not denied that the counsel for the petitioner was present on 15.09.2023 when the warrants of sale were issued by the Court. It is not the case of the petitioner that the petitioner was not aware of the said order dated 15.09.2023. On the one hand the petitioner herself has filed an application stating that her son is ready to bid for the property and on the other hand it has been stated that the munadi was not carried out and hence the son was not aware of the auction. This Court refrains itself from commenting on the conduct of the petitioner. A decree holder cannot be deprived of the fruits of his decree by resorting to delaying tactics. The learned counsel for the petitioner has not been able to point out any deficiency in the process of auctioning as carried out under the orders of the Court.

6. In view of the above, I do not find any merit in the present

revision petition. The same is accordingly dismissed. Pending applications, if any, also stand disposed off.

25.02.2025

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO