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

CR-2201-2018

Date of decision : 20.01.2026

MEHMOOD UMAR AND ANR

....Petitioners

Versus

VIKRAMJIT SINGH AND ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sunny K. Singla, Advocate
for the petitioners.

Mr. Aman Bansal, Advocate and
Ms. Anjali Bansal, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

Present revision petition is directed against the order dated 06.02.2018 passed by the Executing Court whereby the objections filed by the petitioners in execution proceedings seeking exemption of the residential property from attachment, stand rejected.

2. The execution proceedings are based upon decree dated 16.09.2015 passed in Civil Suit No.116, dated 31.03.2009 whereby the Court granted decree of recovery of Rs.1,50,000/- along with interest @ 9% per annum from 03.11.2005 till the date of filing of the suit and future interest @ 6% per annum from the date of filing of the suit till its actual realization in favour of the decree-holder.



3. Suit was preferred by the plaintiff claiming that defendants No.1 and 2 and one Mohd. Yaqoob executed agreement to sell dated 03.11.2005 in his favour.

4. Suit was decreed for alternate relief of recovery.

5. In execution, residential house has been attached.

6. Objector/petitioners are two of the legal heirs of Mohd. Yaqoob, who have filed objections invoking Section 60(1)(ccc) of the Civil Procedure Code, 1908 claiming exemption from attachment of a residential house.

7. Objections have been dismissed by the Executing Court observing that the decree relates to suit for specific performance *qua* the same property and thus all the legal heirs of Mohd. Yaqoob, who inherited the suit property, are jointly liable.

8. Counsel for the petitioners has assailed the order passed by the Executing Court. He submits that in view of the clear mandate as contemplated under Section 60(1)(ccc), a residential house cannot be sold. He relies upon ratio of law laid down in the case of **Kiran Bala vs. Surinder Kumar, (1996) 4 SCC 372, Umrao Singh vs. Nikku Mal Gupta, 1965 PLR 176, Amar Singh vs. Puran Chand, 1973 PLJ 337, Piara Singh vs. Badan Singh, 1985(2) PLR 41 and Saroj Bala and another vs. United Commercial Bank and others, 2013(26) R.C.R. (Civil) 927.**

9. The plea raised by counsel for the petitioners is misconceived and is beyond objections raised before the Executing Court.



10. In execution petition, objections were filed by the objectors, pleading as under:

“2. That the real estate of affairs is that originally Mohammad Aslam son of Salamdin (father of the objectors/judgment debtors) was owner in possession of the house measuring 124.7/9 square yards bearing municipal property no.B-XIVIII-30 bounded as: East- C/W house of Babu, West – C/W house of Bhagwan Dass, North – House of Karnail Singh and South – Road, situated at Inside Sherwani Gate, Mohalla Nusratkhani, Malerkotla.

3. That aforesaid Mohammad Aslam. son of Salamdin (father of the objectors/judgment debtors) was having one alive wife and was blessed with four sons and one daughter.

4. That after the death of aforesaid Mohammad Aslam son of Salamdin (father of the objectors/judgment debtors), the aforesaid house was inherited by his six LRs i.e. Mukhtiaran Begum widow, Farzana daughter, Mohd. Yaqoob, Ayoub, Mahmood Umar (objector) and Doud (objector) as per Mohammedans law. That the objectors inherited estate of Mohammad Aslam (father) to the extent of 7/18th share.

5. That Mohd. Ayub has also died and his 7/36 share was also inherited by his LRs and the objectors inherited 7/72 share out of share of Mohd. Ayub.

6. That Mohd. Yaqoob has also died and his 7/36 share was also inherited by his LRS. The liability of Mohd. Yaqoob is 1/3, therefore the liability of the objectors is only to the extent, which they inherited from Mohd. Yaqoob only. Aforesaid share of the objectors have no liability. Other share of the objectors has wrongly attached and the same deserves to be redeemed.

7. That the objectors have no concern with other liability of Mukhtiaran and Farzana judgment debtors.

8. That the attached house is the only dwelling house of the objectors and the same cannot be snatched from the objectors, moreover the same is impartible in nature.”



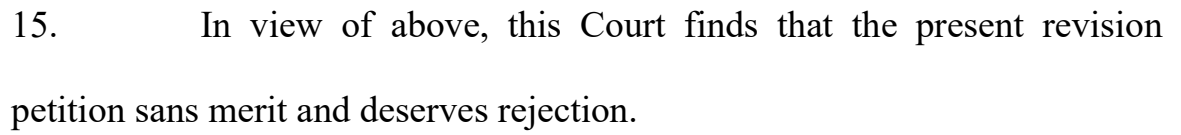
11. A bare perusal of the objections raised before the Executing Court would reveal that the objectors are claiming the liability of Mohd. Yaqoob being only to the extent of 1/3, the same cannot be satisfied from the share inherited by them from Mohd. Yaqoob and claimed that the recovery of decree-holder is too small for which house should not be attached.

12. Before this Court when the matter was being argued, counsel for the objectors was asked to seek instructions as to whether the objectors are ready to pay the decretal amount or not.

13. On instructions, he submits that objectors are disputing their liability and are not ready to pay the amount.

14. Having heard counsel for the parties and after carefully perusing the records of the case, this Court finds that admittedly share in the house was inherited by objectors from Mohd. Yaqoob, who during his lifetime agreed to sell the property in question in favour of the decree-holder. Suit has been decreed for alternate relief of recovery.

14.1. In terms of Section 55(6) of the Transfer of Property Act, 1882 the buyer is entitled to a charge on the property as against the seller and all persons claiming under him to the extent of his interest in the property, for the amount of any purchase money paid by the buyer in anticipation of the delivery. As per Section 60(1)(ccc) of the Code, the protection under the clause does not extend to any property specifically charged with debt sought to be recovered.



16. Resultantly, the instant revision petition is ordered to be dismissed.

17. Pending application, if any, shall also stands disposed off.

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes