



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

276

CR-915-2023

Date of Decision.:13.05.2025

M/s Hari Chand Sons

.....Petitioner

Vs.

Gurpreet Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vishwajeet Singh, Advocate for
Mr. Prince Goyal, Advocate for the petitioner.

DEEPAK GUPTA, J. (ORAL)

In a suit for recovery filed by petitioner- plaintiff M/s Hari Chand Sons, an application under Order XXXVIII Rule 5 CPC for attachment of certain property of the defendant- respondent was moved. The said application was declined by the trial Court by way of the impugned order dated 15.09.2022 which has been assailed before this Court.

2. On 09.02.2023, following order was passed by this Court:

*“Inter alia contends that the trial Court has not taken into consideration copy of the jamabandi for the year 2016-17 whereby the petitioner had demonstrated before the Court that the land held by the petitioner in 4 khewats, out of which the defendants had sold about 3 kanal 4 marlas i.e. 72/745 share out of 183/745 share of the total khewat 37 kanal 5 marlas vide sale-deed dated 04.11.2022, and 1/16 share of land in 15 kanal 6 marlas and 1/6th share in 1 kanal and 19 marlas were held in distress. It is, thus, submitted that the Court below as was not correct to observe that the plaintiff-applicant has not brought on record any tangible material for the Court to arrive at a subjective satisfaction in terms of the provisions of Order 38 Rule 5 CPC. It is further contended that the guidelines laid down in **Onkar Mal Mittal vs. State Bank of Patiala, AIR 1992 P&H 104**, have not been taken into consideration while dismissing the application seeking attachment before judgment.*

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Notice of motion returnable for 11.04.2023.

Notice re: stay."

3. On 11.04.2023, despite service, nobody put in appearance on behalf of the respondent- defendant. This Court adjourned the matter for 23.08.2023 and in the meantime, respondent was directed not to alienate his share in Khewat No.1878/1737, khatauni No.2588 at Village Poohla, Tehsil Bathinda (Nathana), District Bathinda till the next date of hearing. The said interim order has continued from time to time.

4. When the matter has been listed for final hearing, nobody has appeared for the respondent even today.

5. Learned counsel for the petitioner- plaintiff informs that plaintiff has concluded its evidence on 13.02.2024 and even the defendant had closed his evidence on 18.10.2023 and as of now, case is fixed before the trial Court for 28.05.2025 for consideration of an application for additional evidence.

6. Having regard to the aforesaid facts and circumstances, when both the parties have concluded their evidence, it will in the fitness of things, if the order dated 11.04.2023 passed by this Court is allowed to continue, whereby respondent- defendant was directed not to alienate his share in Khewat No.1878/1737, khatauni No.2588 at Village Poohla, Tehsil Bathinda (Nathana), District Bathinda, till the disposal of the suit by the trial Court. The present petition is hereby disposed of accordingly.

(DEEPAK GUPTA)
JUDGE

May 13, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No