



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

112

CR-179-2017

Date of decision: 03.04.2025

ARJUN

..Petitioner

Versus

LAXMI NARAIN

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Aggarwal, Advocate  
Mr. Lakshay Aggarwal, Advocate  
for the petitioner.

Mr. Nitish Yadav, Advocate  
for respondent.

**ANIL KSHETARPAL, J(Oral)**

1. The petitioner herein is a holder of a decree passed by the Civil Court on 28.04.2011. The plaintiff was held entitled to possession of the truck and costs. The decree holder filed the execution petition. During the execution petition, the Court passed the following order on 28.10.2014:-

*“For the purpose of knowing the actual position, local commission was also appointed. In its report local commission mentioned that the truck was altered after taking permission from the Director of Transport, Haryana, Chandigarh vide office memo no.26121/80 dated 21.03.2003. Laxmi Narain deleted the hypothecation agreement of aforementioned tanker with Shri Ram Transport Finance Company Ltd. on dated 13.07.2005 and transferred the tanker to Sh. Ishwar Singh s/o Laxmi Narain. Ishwar Singh entered into hypothecation agreement of aforementioned tanker with Shri. Ram Transport Finance Company Ltd. On 26.09.2006. Ishwar Singh cancelled hypothecation agreement on said tanker and transferred it again to Laxmi Narain on 25.07.2011. Admittedly, during all these transactions permission of Court was not taken. Once the matter sub-judice the party is required not to make change in property or to alienate it further as concept of lis pendens is amply clear in this regard. Though, the permission of registration authority was taken but*



*permission of Court was not taken during making alteration. It is also reported by the local commissioner that truck which has been converted into tanker during the hearing of case is not in fit state to ply on the road as it does not fulfill the condition of fitness as mentioned in Haryana Motor vehicle Rules, 1993. It is reported that all six tyres of tanker are old, both front lights of tanker, driver side indicator of tanker are damaged. The tanker has no wind screen wiper. The front glass of driver side is also damaged. The radiator of tanker is leaked. The chassis number of tanker is same as mentioned in the registration certificate. The engine number of tanker is not visible due to old condition. All these conditions cumulatively suggest that the vehicle as a case property was substantially altered beside all wear and tear. Obviously, the plaintiff/DH in such circumstances will fail and will not be able to realize the fruits of decree. The truck which has been completely wasted and as per the report of local commissioner not in the fit state to ply on the road. The purpose of decree will get frustrated if truck is allowed to be handed over at this stage to DH. In view of above discussion, the issue is decided on favour of DH and against the JD.*

***Relief***

*In the light of above discussion, the decree which was for the recovery of possession of truck i.e. movable property is not executable as such. Decree for recovery of movables always has an inherent quality of securing to the Decree Holder the value thereof as held in M/s Aggarwal Textile Traders, Cotton and Waste Merchants, Hansi Vs The Hafed Spinning Mill, Umra Road, Hansi 2013(4) PLR 464. The decree is extended to ensure the financial equivalent of the value of said truck. DH/plaintiff is directed to file and produce evidence regarding valuation and assessment of the said truck at the time of judgment dated 28.04.2011. JD shall be entitled to rebut the claim of plaintiff/DH regarding the assessment by producing his evidence. Now case stands adjourned to 21.11.2014.”*

2. Thereafter, the parties were directed to lead evidence to prove the valuation in order to satisfy the decree because the movable property namely the truck was not in a condition to be delivered to the decree holder. After the evidence was led, the Executing Court dismissed the execution petition on the ground that the judgment debtor was intending to comply



with the judgment, hence, the decree cannot be executed. The Court held that the decree holder is not entitled to the amount.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. It is evident that on 28.10.2014, there was an order passed by the Executing Court to the effect that the movable property namely the truck is not in a position to be delivered, hence, the Court directed the parties to lead evidence to prove its valuation in order to satisfy the decree. Once, the parties led the evidence to prove the valuation, the Executing Court ignored the order dated 28.10.2014, and proceeded to dismiss the execution petition.

5. The impugned order is perverse, hence, the same is set aside.

6. The Executing Court is directed to proceed with the execution petition.

7. With these observations, the present petition is allowed.

**April 03<sup>rd</sup>, 2025**

*Ayub*

**(ANIL KSHETARPAL)  
JUDGE**

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/No*