



CR No. 6168 of 2025 (O&M)

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

**CR No. 6168 of 2025 (O&M)
DATE OF DECISION: 08.09.2025**

GURVINDER SINGH

.....PETITIONER

Vs.

HARJIT SINGH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Himanshu Puri, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition filed under Article 227 of the Constitution of India is for setting aside the impugned orders dated 11.10.2024 and 11.08.2025 (Annexures P-5 and P-6), passed by the learned Civil Judge (Junior Division), Malerkotla, being illegal and contrary to the provisions of law.

2. The brief facts of the case are that the contesting respondent No. 1-Harjit Singh filed a suit for recovery of Rs.4,74,400/- against the present petitioner-defendant and proforma respondent No. 2 on the basis of two post-dated cheques.

2.1 The present petitioner-defendant No. 1 appeared and filed a written statement. On the basis of the pleadings, five issues were framed (including the 'Relief' part). Thereafter, the parties led their respective evidence and ultimately, the suit was decreed in favour of the defendants,



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vide judgment and decree dated 27.03.2018 passed by the learned Additional Civil Judge (Senior Division), Malerkotla, in Civil Suit No. 111 of 24.11.2015.

2.2 Thereafter, the contesting respondent No. 1-plaintiff filed an execution application (Annexure P-2) and also filed an application under Order XXI Rule 66 of the Code of Civil Procedure, 1908 (for short 'the CPC') (Annexure P-3).

2.3 Reply was filed. Then, vide order dated 05.08.2024 (Annexure P-4), the learned Civil Judge (Junior Division), Malerkotla, held that as per the contention of the application, the decree-holder has to recover an amount of Rs. 6,12,600/- along with interest and costs, and it was stated that the land of the Judgment Debtor (JD), which is under attachment, is free from all encumbrances and is sufficient for realization of the decretal amount. At the same time, it was held that the market value of the property of the JD is Rs. 10,00,000/- per '*Bigha*'. Further, in this order dated 05.08.2024 (Annexure P-4), it was held that the land under attachment belonging to the JD is one-half share of the total land measuring 94 '*Bighas*' and 9 '*Biswas*'. By disposing of the said application, the Court ordered that it was appropriate to call a report from the '*Tehsildar*' regarding the share of the JD in the attached land, valuation of the land per '*Bigha*', and whether the property is sufficient for recovery of approximately Rs. 7,00,000/-.

2.4 As per the report of the '*Tehsildar*' dated 28.03.2024 (Annexure P-7), it was submitted that the half share of the JD out of total

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94 'Bighas' and 8 'Biswas' was attached, vide 'Rapat' No. 205, dated 16.03.2024.

2.5 As per the order dated 11.10.2024 (Annexure P-5), the order now under challenge, after receiving the report from the concerned '*Tehsildar*', it was held by the learned lower court that property of the JD to the tune of Rs. 6,12,600/- has already been attached, vide Rapat No. 205, dated 16.03.2024, and vide the same order, warrants of sale of the aforesaid attached land were issued and the land was put to auction on 25.11.2024 and the report was directed to be submitted by 11.12.2024.

2.6 Further, as per the order dated 11.08.2025 (Annexure P-6), the order under challenge, it was held by the learned lower court that the sale warrants of the attached property of the JD were received back unexecuted with the detailed report of '*Tehsildar*' Ahmedgarh that the sale proceedings of the attached property of the JD could not be executed as there were chances of a fight at the spot as '*Kisan*' Union and some unknown persons protested against the auction. Accordingly, directions were given to the SHO of the concerned area to provide necessary police help to the officials in execution of sale warrants and the property of the JD was put to sale for 02.09.2025 and the report was to be submitted on 08.09.2025.

3. I have heard learned counsel for the revisionist-petitioner and perused the paper-book.

4. In view of the order proposed to be passed, notice is not being issued to the respondents as it would delay the proceedings besides entailing additional expense to the respondents.

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5. As discussed above, the execution for recovery is only for Rs. 6,12,600/-. The property of the JD has been attached to the tune of 47 'Bighas', i.e. half share of 94 'Bighas' and 8 'Biswas'. This Court feels that the provisions of Order XXI Rule 66 of the CPC are mandatory in nature. It was not open to the learned Executing Court to attach the whole of the property belonging to the Judgment Debtors for recovery of a meager amount of Rs. 6,12,600/-, because it has been mentioned in the order dated 05.08.2024 (Annexure P-4) that the market value of the property of the JD is Rs. 10,00,000/- per 'Bigha'. Thus, it was mandatory for the Court to determine whether the property was sufficient to satisfy the decree and only such part of land could be ordered to be sold which was sufficient to meet the decree. If the entire property of the JD is auctioned, definitely it will cause hardship to the JDs.

6. Thus, in the circumstances, the learned lower court could not put the entire property of the JDs i.e. 47 'Bighas', which was attached by the 'Tehsildar' under the execution, to auction. The proper procedure for the learned lower court was to identify that portion of the property which was to be sold for satisfaction of the decree.

7. Accordingly, the orders dated 11.10.2024 and 11.08.2025 (Annexures P-5 and P-6) cannot be held to be legal in any manner.

8. Consequently, the impugned orders dated 11.10.2024 and 11.08.2025 (Annexures P-5 and P-6) passed by the learned Civil Judge (Junior Division), Malerkotla, are set aside, and the learned lower court is directed to identify that piece of land which can be put to auction for

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satisfaction of the decree.

9. The Judgment Debtors shall appear before the learned lower court and make submissions regarding which part of the property can be put to auction for satisfaction of the decree.

10. The petition stands allowed in the above terms.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

September 08, 2025
nitin

(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes
Whether Reportable	No