



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

CR-4661-2022(O&M)

Date of Decision: August 25, 2025

Rachhpal Singh

...Petitioner

Versus

Ant Kumari

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Satbir Rathore, Advocate
for the petitioner.

Respondent proceeded against ex-parte
vide order dated 27.05.2024.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 06.04.2022 (Annexure P-4), whereby, the attached property of the respondent-Judgment Debtor was released by the Executing Court. Besides the same, the petitioner-decree holder has also challenged the order dated 01.10.2022 (Annexure P-10), whereby, an application (Annexure P-7) filed by the decree holder (petitioner) for attachment and sale of property of the JD was dismissed by the Executing Court.

Upon notice, the respondent did not make appearance despite service and as such, was proceeded against ex-parte.

Learned counsel for the petitioner heard.



The facts, as culled out from the paperbook, are as follows:-

That, initially petitioner-decree holder (plaintiff) had filed a suit against Ant Kumari-respondent-JD, thereby, seeking possession by way of specific performance of the agreement to sell dated 10.02.2003, as detailed in the headnote of the judgment dated 30.03.2016, copy whereof is Annexure P-1. In the said suit, alternative relief of recovery of Rs.1,25,000/-, with interest @ 15% per annum, since the date of agreement, till realization, was also prayed for. The said suit was contested by the respondent-defendant and ultimately, after adducing of the evidence, the alternative decree for recovery of Rs.1,25,000/- alongwith the interest was passed vide judgment dated 30.03.2016.

Being aggrieved, the respondent-defendant (JD) had filed an appeal to assail the aforesaid judgment. As evident from Annexure P-2, the aforesaid appeal was filed on 11.05.2016 and it was dismissed on 02.09.2021.

During the pendency of the appeal, execution bearing No.46/2016 was filed at the instance of the petitioner-decree holder (plaintiff). As evident from the zimini orders placed on record, the respondent-JD had made appearance in the said execution petition through counsel on 07.10.2016. The list of properties was filed, on the basis of the attached land of Khewat No.72 and 78, as per jamabandi for the year 2018-2019. However, objection petition was filed by the respondent-JD, for recall of the warrant of sale and the objections were allowed vide order dated 06.04.2022, copy whereof is Annexure P-4.



In the objections, it was averred by the respondent-JD that Khewat No.83 is a common passage and it cannot be attached under the law and in Khewat no.72, there is house of JD, which also cannot be attached and further that JD has sold the property in Khewat No.78. While considering the common passage to be existing in Khewat No.83 as well as sole residence of the respondent-JD, to be situated in Khewat No.72 and qua Khewat No.78, while observing that JD has already sold the land situated therein, the objections were allowed.

Upon allowing of the aforesaid objections, an application under Section 51 read with Order 21 Rule 37 CPC, for securing arrest of JD-Ant Kumari, for deliberately avoiding the payment of the decretal amount, was also filed. Therein, it was also averred that she has dishonestly transferred her immovable property measuring 3 Kanal 9 Marla to one Tripta Devi, during the pendency of the execution, with the purpose only to avoid recovery of decretal amount. The aforesaid application was considered by the Executing Court. However, in view of the provisions of Section 56 CPC, which provides for prohibition of arrest or detention of women in execution of a decree for money, which is as in the case in hand, the application was dismissed vide order dated 01.09.2022.

Subsequently, another application for attachment and sale of land measuring 3 Kanal 9 Marla, fraudulently transferred by the JD to Tripta Devi wife of Jagdish Singh was filed. After seeking reply to the said application, the parties were heard and the same was also dismissed vide order dated 01.10.2022, which has also been challenged in the present

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revision petition.

In the said order, detail has been given about the manner of filing of the execution to secure execution of the decree dated 30.03.2016, vide which the alternative relief of recovery of Rs.1,25,000/- was ordered and furthermore also, about the detail of the applications filed, which have already been discussed in the earlier portion of the judgment. It was also categorically stated in the application about subsequent vendee to be very well aware of the pendency of the execution proceedings against the JD.

After hearing, counsel for the parties, vide impugned order dated 01.10.2022, it was observed by the Executing Court that vide order dated 06.4.2022, the objections of the JD were allowed, wherein, it was observed that since the land measuring 3 Kanals 9 Marlas has already been sold by the JD, in favour of Tripta Devi, vide sale deed dated 16.06.2020, qua which mutation No.1048 dated 16.6.2020, was sanctioned, therefore, it was released from attachment. Furthermore, a direction was given to the decree holder to furnish fresh list of properties of JD and the above order, was never challenged by the decree holder before Court of competent jurisdiction and it has attained finality. It was further observed that fresh list of property was not filed and thereupon, the application for cancellation of sale deed dated 16.06.2020 and for attachment of property, which is subject matter of the same, is not maintainable and hence, the same was dismissed.

Simultaneously, vide same order, fresh list of properties of JD was ordered to be furnished.

In this backdrop, being aggrieved by the aforesaid two orders,



the present revision petition has been filed.

As already observed aforesaid, when the suit for alternative recovery of Rs.1,25,000/- was decreed, Ant Kumari-JD had filed an appeal, which was instituted on 11.05.2016 and the same was dismissed on 02.09.2021. It was during the pendency of the said appeal, an execution was filed on 15.07.2016. As observed aforesaid, in the said execution petition, the respondent-JD had made appearance through counsel on 07.10.2016. From the photocopy of the jamabandi, coming on record as Annexure P-9, it is evident that respondent-Ant Kumari (JD) is co-sharer in Khewat No.78. It is also evident from the remarks that the sale deed dated 16.06.2020 was executed by Ant Kumari wife of Late Tara Chand, in favour of Tripta Devi wife of Jagdish Singh, with regard to the land, as detailed therein. It is also evident that the same related to Khewat No.78, which was attached to secure the execution of the decree passed against the respondent-JD.

In the light of the aforesaid, it is pertinent to mention that while deciding the objection petition vide order dated 06.04.2022, it was specifically averred in the objections that Khewat No.83 is a common passage and as such, it cannot be attached; in Khewat No.72, there is house of JD, which also cannot be attached; and further JD has already sold the property situated in Khewat No.78.

So far as, findings qua Khewat No.83 and 72 are concerned, the same need not to be re-opened. However, so far as, Khewat No.78 is concerned, it is pertinent to mention that in the impugned order there is only mention



made about the sale having effected and the objections having been allowed. The date of sale, as such, was not disclosed by the respondent-JD. However, from the factual position, as narrated aforesaid, it is evident that it was during the pendency of the appeal, when the respondent-JD had already made the appearance through counsel in the execution on 07.10.2016, she had cheeks to sell her property situated in Khewat No.78 to Tripta Devi. The sale deed in question was executed on 16.06.2020.

However, learned Executing Court, while deciding the objection petition, did not take into consideration, about the date, as to when the sale deed was executed. It is categoric claim of the decree holder that it was to thwart interest of the petitioner-decree holder, with malafide intention that the immoveable property has been sold by Ant Kumari-JD. Any alienation made by the JD, during the pendency of the execution, more particularly, when JD had put in appearance, in the execution proceedings, cannot be termed to be circumstance to jeopardise and place any fetters on the rights of the decree holder to seek execution of the decree. Knowing fully well as well as also participating the execution proceedings and the sale deed having effected, clearly spells out the malafide intention, on the part of JD to effect alienation to counter the claim of the decree holder.

This aspect was never considered by the Executing Court, while simply having accepted the objections of the respondent-JD, vide impugned order dated 06.04.2022. Therefore, the findings recorded by the Executing Court, qua Khewat No.83 and 72, are hereby affirmed. So far was, Khewat No.78 is concerned, the findings, as such, are hereby reversed and the

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petitioner-decree holder is at liberty to proceed to assert his right, with regard to Khewat No.78, as it was the sale, having effected during the pendency of the execution petition, in which the respondent-JD had also participated.

Consequently, the order dated 01.10.2022, vide which the application filed at the instance of the petitioner-decree holder for attachment and sale of land measuring 3 Kanal 9 Marla, which formed the basis of Khewat No.78, as observed earlier, cannot subsist any longer and therefore, the same is also hereby set aside.

In the light of the aforesaid observations, qua Khewat No.78, the Executing Court is at liberty to proceed further, in accordance with law.

In view of aforesaid terms, the revision petition stands disposed of.

August 25, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No