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

CR-4856-2025

Date of Decision: 28.07.2025

Hanish Singla

.....Petitioner

Vs.

Sukhvir Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Karan Singla, Advocate, and
Ms. Malvi Aggarwal, Advocate,
for the petitioner.

SUDEEPTI SHARMA J. (ORAL)

1. Challenge in the present petition is for setting aside the impugned order dated 17.04.2025 passed by the learned Civil Judge (Junior Division), Dhuri, whereby, the application filed by the petitioner/plaintiff for issuance of warrants of attachment of the property of the respondent/judgment debtor has been dismissed.

2. Learned counsel for the petitioner contends that the learned Civil Judge (Junior Division), Dhuri, did not take into consideration that civil suit was filed on 10.08.2021 alongwith application under Order 38 Rule 5 CPC, wherein, notice of the suit as well as stay application was issued to the respondent/judgment debtor for 23.08.2021. He further contends that the respondent/judgment debtor has intentionally sold the property in question and the learned Civil Judge (Junior Division), Dhuri, failed to take into



consideration Section 53 of the Transfer of Property Act, 1882. He further contends that the property in question was sold to defeat the purpose of attachment of property in question. Hence, he prays for setting aside of the impugned order dated 17.04.2025.

3. I have heard learned counsel for the petitioner and perused the case file with his able assistance.

4. It would be apposite to reproduce relevant portion of the order dated 17.04.2025 passed by learned Civil Judge (Junior Division), Dhuri, the same is reproduced as under:-

“Evidently, one of the exceptions to the above provided law is a bonafide purchaser of the property, for consideration. As stated above, the property of the Decree Holder has been sold by him to one Upma Singla. The said Upma Singla is not a party to the Execution Petition in hand. Only because the property in question has been sold by the Judgment Debtor on the filing of a suit against him, it is no ground to believe that the purchaser of the said property is not a bonafide purchaser, for a valid consideration.

From the copy of sale deed of the property in question produced on record, it is evident that the said property has been sold for consideration. It is not the case of the Decree Holder that the purchaser of the said property is a relative of the Judgment Debtor or was otherwise, known to the Judgment Debtor, prior to the said sale. The property in question was not a subject matter of the suit for recovery, which was filed by the Decree Holder against the Judgment Debtor, nor was the said property ever attached in any such suit or proceeding. The sale deed of the property in question was executed on the same day, when the above mentioned suit was filed by the Decree Holder against the Judgment Debtor and thus, there is no chance of the purchaser of the said property having notice of the filing of the suit by the Decree Holder, on the date of purchase of the property in question.



Thus, in the opinion of this Court, due to the above discussed reasons, there is no ground to believe that the purchaser of the property in question is not a bonafide purchaser, for due consideration. Accordingly, the property in question cannot be attached and sole in the Execution Petition in hand. Consequently, the application in hand is dismissed.

On request, case is adjourned to 29.04.2025 for filing fresh list of properties of the Judgment Debtor by the Decree Holder.”

5. A perusal of the above referred to order shows that learned Civil Judge (Junior Division), Dhuri, has rightly observed that as per Section 53 of the Transfer of Property Act, one of the exceptions is bona fide purchaser of the property, for consideration. Undisputedly, the property of decree holder has been sold by him to one Upma Singla, who is not party to the execution petition. Further, that only because of the property in question was sold by judgment-debtor on the filing of suit against him is not a ground to believe that the purchaser of said property is not a bona fide purchaser, for a valid consideration. The sale deed of the property was produced on record and the said property was sold for consideration. It was not sold to the relative of judgment-debtor or any person known to the judgment-debtor. The property in question was not a subject matter of suit for recovery, which was filed by the decree holder against the judgment-debtor, nor was the said property ever attached in any suit or proceeding. The sale deed of property in question was executed on the same day, when the suit was filed by the decree holder against the judgment-debtor. Therefore, the purchaser had no chance of having notice of the filing of the suit by the decree holder on the



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date of purchase of the property in question. Therefore, it has rightly been held by learned Civil Judge (Junior Division), Dhuri, that the property in question cannot be attached.

6. In view of the above, I do not find any infirmity or illegality in the impugned order dated 17.04.2025 passed by the learned Civil Judge (Junior Division), Dhuri, and the same does not warrant any interference by this Court. Consequently, the present petition is hereby **dismissed** and the said impugned order dated 17.04.2025 is accordingly upheld.

7. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

28.07.2025

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No