

(2003) 10 P&H CK 0094

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 4748 of 2003

Jasbir Singh

APPELLANT

Vs

Syndicate Bank and
Others

RESPONDENT

Date of Decision: Oct. 14, 2003

Citation: (2004) 1 CivCC 667 : (2004) 1 CivCC 667 : (2004) 136 PLR 483 : (2004) 1 RCR(Civil)
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Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: Jyoti Sareen, for the Appellant;

Final Decision: Dismissed

Judgement

Virender Singh, J.

Jasbir Singh petitioner herein is one of the Judgment debtors. A suit was filed in the year 1983 by Syndicate Bank respondent No. 1 against him and three principal loanees namely Sham Sunder, Panna Lal and Par-tap Singh respondent Nos.2 to 4. It was decreed in March 1984. Thereafter execution proceedings were filed before the concerned court. The petitioner who is JD No. 4 in the executing court filed an objection petition in July, 2002 alleging that no notice of the suit was served upon him and that the bank (decree holder) has obtained the decree on the basis of the false report of the Process Server Agency and as such got an ex parte decree against him. It was further asserted by the petitioner that he had neither signed any document of the bank nor he had ever stood surety/guarantor for Sham Sunder, Panna Lal and Partap Singh she did not know them earlier. It was then asserted that the bank had prepared false documents on their own and played a fraud with him.

2. The objection petition was opposed by decree holder Bank on the ground that the objection petition is barred by limitation and that even otherwise the petitioner had intentionally not appeared despite service and for that reason an ex parte decree was passed. It was further averred by the Bank that the present petitioner was well

aware of the passing of the ex parte decree against him and even about the execution proceedings and he has now moved this objection petition for the purpose of delaying the execution proceedings because an order of his civil imprisonment by way of arrest has been passed by the court.

3. The objection petition was consequently dismissed by the learned Civil Judge (Senior Division), Jalandhar vide impugned order dated 25.8.2003. Hence, this revision petition.

4. I have heard Ms. Jyoti Sareen, learned counsel for the petitioner at length. The impugned order has also been perused by me. Other documents attached with the petition have also been noticed by me.

5. It has been vehemently contended by the learned counsel for the petitioner, that the ex parte decree passed against the petitioner is a nullity in the eyes of law and as such it cannot be executed. Developing the arguments, the learned counsel for the petitioner further contended that the petitioner had no acquaintance with any of the principal loanees namely Sham Sunder, Panna Lal and Partap Singh and as such question of signing any documents as guarantor or surety for them with the Bank, does not arise. It has been then contended that the dispute as raised by the petitioner requires recording of the evidence and for this reason, the learned executing court should have framed issues in order to allow the respective parties to lead evidence. According to the learned counsel for the petitioner, the impugned order is, thus, liable to be set aside.

6. In support of her contentions, the learned counsel for the petitioner has relied upon [S.P. Chengalvaraya Naidu \(dead\) by L.Rs. Vs. Jagannath \(dead\) by L.Rs. and others](#), [Ran Singh Vs. The Gandhar Agricultural Co-operative Service Society, Gandhar](#), and Charanjit Singh and Ors. v. Manmohan Singh and Ors. (1989)95 P.L.R. 494.

7. I do not agree with the arguments advanced by the learned counsel for the petitioner.

8. The suit against the petitioner and other three persons was filed way back in the year 1983. It was decreed in March, 1984 in favour of respondent No. 1-Bank. The amount involved is Rs. 67,337.75. A decree with costs was passed in favour of the respondent-bank along with 12.5% interest on the decretal amount from the date of suit till its payment. The execution proceedings were instituted in the year 1989. Concededly no application for setting aside the ex parte judgment and decree has been filed by the present petitioner. It has been observed by the learned executing court that the objection petition has been filed only after an order of arrest of the petitioner for his detention in civil imprisonment was passed and this all has been done in order to delay the execution proceedings. I have no reason to disagree with the observation made by the learned executing court. Since the petitioner had not moved any application for setting aside the ex parte judgment and decree passed

way back in March, 1984 or got any order of stay of execution, it does not lie in the mouth of the petitioner to say that the above said decree is a nullity in the eyes of law. The aforesaid judgments do not advance the case of the petitioner in any manner. They are absolutely distinguishable on facts. I am of the considered view that the objection petition has been Filed by the petitioner in order to delay the execution proceedings which are pending for the last 14 years. The executing court has exercised its judicial discretion in the right direction and as such the impugned order does not suffer from any infirmity on the face of it.

Consequently, the present revision petition is dismissed being devoid of any merit.