

(2012) 09 P&H CK 0325

High Court Of Punjab And Haryana At Chandigarh

Case No: Case No. C. R. No. 4847 of 2011

M/s Sudershan Chemical
Industries Ltd.

APPELLANT

Vs

M/s Wadhwa Mal Chanan Ram

RESPONDENT

Date of Decision: Sept. 13, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 21 Rule 41(2), 151
- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: J.L. Malhotra, for the Appellant;

Final Decision: Allowed

Judgement

L.N. Mittal, J.

This revision petition under Article 227 of the Constitution of India has been filed by the decree-holder (DH) assailing order dated 14.06.2011 passed by the Executing Court i.e. learned Additional District Judge, Bathinda, thereby dismissing the execution petition. In the execution petition for recovery of money, it appears that some property was attached. However, vendees from respondent - judgment-debtor (JD) filed objections against the attachment of the said property. The said objections were allowed by the Executing Court vide order dated 02.04.2011 (Annexure P-2). It appears that thereafter the Executing Court directed the DH-petitioner to furnish list of property of JD-respondent for attachment, but the DH failed to do so in spite of two opportunities. Consequently, the Executing Court dismissed the execution petition vide impugned order dated 14.06.2011, which is under challenge in this revision petition at the hands of the DH.

2. None has appeared for respondent-JD in spite of service and in spite of adjournments on many dates of hearing. Consequently, I have heard counsel for the

petitioner and perused the case file.

3. Counsel for the petitioner prayed that the DH did not have any list of other property of JD, and therefore, DH has now filed application bearing C. M. No. 11198-C-II of 2012 for directing the JD-respondent to furnish the list of his properties.

4. I have carefully considered the matter.

5. The application bearing C. M. No. 11198-C-II of 2012 filed in this Court should have been filed in the first instance in the Executing Court because it lies within the domain of the Executing Court.

6. In these circumstances, I am of the considered opinion that ends of justice would be met if the execution petition is restored to the files of the Executing Court, with liberty to the DH to move appropriate application under Order 21 Rule 41(2) read with Section 151 of the CPC (in short - CPC) in the Executing Court.

7. Accordingly, the instant revision petition is allowed. Impugned order dated 14.06.2011 passed by the Executing Court is set aside and execution petition is restored to the files of the Executing Court, which shall proceed with the execution petition in accordance with law.

8. The DH shall be at liberty to move application under Order 21 Rule 41(2) read with Section 151 CPC in the Executing Court, which shall consider the same in accordance with law. C. M. No. 11198-C-II of 2012 also stands disposed of accordingly.