

(2012) 03 P&H CK 0477
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 6069 of 2011

Ajaib Singh

APPELLANT

Vs

Mohinder Kaur

RESPONDENT

Date of Decision : 23-03-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2012) 03 P&H CK 0477

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

Bench : Single Bench

Advocate : R.S. Dhaliwal, for the Appellant; H.S. Manhas, for the Respondent

Judgement

L.N. Mittal, J.—Suit filed by Mohinder Kaur - respondent against her husband Ajaib Singh - petitioner was decreed vide judgment and decree dated 11.05.2009 for payment of maintenance @ Rs. 2,000/- per month since 13.09.2001 onwards. It appears that respondent has filed two execution petitions for execution of the said decree. In one execution petition, she has claimed arrears of maintenance amounting to Rs. 1,89,000/- and in the other execution petition, she has claimed arrears of maintenance of Rs. 36,500/-. Executing Court, vide order dated 05.02.2011 (Annexure P-1) and order dated 10.03.2011 (Annexure P-2), passed in the first execution petition, ordered attachment of property of the husband judgment-debtor and has attached one-third of his pension, whereas vide order dated 10.03.2011 (Annexure P-3) in the second execution petition, warrant of attachment has been ordered to be issued on filing list of property of the judgment-debtor. All these three orders are under challenge in this revision petition filed by husband judgment-debtor under Articles 226 and 227 of the Constitution of India. I have heard Learned Counsel for the parties and perused the case file.

2. Counsel for the petitioner contended that the petitioner has already paid the entire due amount of maintenance and nothing remains due from him.

3. On the other hand, counsel for the respondent pointed out that Executing Court, vide order dated 21.05.2011, has found that amount of Rs. 55,400/- remains due from the husband to the wife, in view of order dated 14.08.2010, which has not been paid. However, order dated 14.08.2010 is not under challenge in this revision petition. Similarly, order dated 21.05.2011, whereby application of husband for recall of impugned order dated 10.03.2001 has been dismissed by the Executing Court, is not under challenge in this revision petition. In view of the aforesaid, the instant revision petition is disposed of by observing that the petitioner may take appropriate steps in accordance with law, if any permissible, to assail order dated 14.08.2010. However, if the question of arrears of maintenance amount being due has not yet been adjudicated upon in accordance with law by the Executing Court, the petitioner may approach the Executing Court for getting the same adjudicated in accordance with law. It is, however, made clear that if the said question has already been adjudicated upon, then the petitioner shall have no right to agitate the same again.