
(2020) 10 SHI CK 0013
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 384 Of 2020

Jagbhandu Verma

APPELLANT

Vs

Indian Overseas Bank And Others

RESPONDENT

Date of Decision : 01-10-2020

Acts Referred:

Constitution Of India, 1950 — Article 227
Code Of Civil Procedure, 1908 — Order 21 Rule 106

Citation : (2020) 10 SHI CK 0013

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Rishi Tandon

Final Decision : Dismissed

Judgement

Sandeep Sharma, J

1. By way of instant petition filed under Article 227 of the Constitution of India challenge has been laid to order dated 26.07.2017(Annexure P-2), whereby proclamation notice dated 1.9.2020 (Annexure P- 3) came to be issued by learned Civil Judge(Senior Division) Shimla, District Shimla, H.P.in Execution Petition No.900129 of 2011 in Civil Suit No.82/1 of 2008, titled as Indian Overseas Bank vs. Jagbandhu Verma and others.

2. Having heard learned counsel representing the petitioner and perused the material available on record vis-à-vis reasoning assigned in the order impugned before this Court, this Court sees no reason to interfere in the same, especially having taken note of the fact that order impugned before this Court was passed on 26th July, 2017. No plausible explanation has been rendered on record qua the inordinate delay in laying challenge to aforesaid order. Otherwise also, having carefully noticed the provisions of Order XXI, rule 106 CPC, this Court finds that present petition is not maintainable because appropriate remedy for getting the ex parte order set aside is to file application under aforesaid provision of law

before the same court, which has passed the ex parte order in the execution petition. Otherwise also, bare perusal of order impugned before this Court clearly reveals that despite repeated opportunities, petitioner-JD failed to put in appearance and as such, learned court below had no option but to issue proclamation of the property in question.

3. Consequently, in view of above, petition is dismissed being devoid of merit. However, liberty is reserved to the petitioner to approach appropriate court of law, under appropriate provisions of law to get the ex parte order set aside, if so advised.