

(2016) 03 P&H CK 0284
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1200 of 2016 (O&M)

Naranjan Singh

APPELLANT

Vs

Punjab State Co-operative Bank Limited and others

RESPONDENT

Date of Decision : 10-03-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 60(i)

Citation : (2016) 3 PLR 73

Hon'ble Judges : Rekha Mittal, J.

Bench : Single Bench

Advocate : Mr. A.P.S. Shergil, Advocate, for the Appellant;

Final Decision : Dismissed

Judgement

Rekha Mittal J. (Oral) - The present petition has been directed against order dated 17.10.2015 passed by the Civil Judge (Junior Division), Chandigarh whereby the Executing Court has made an order for attachment of salary of the petitioner for realisation of the decretal amount.

2. Counsel for the petitioner would contend that on 18.04.2015, the Executing Court passed order (Annexure P-3) whereby the execution petition was ordered to be dismissed having been rendered infructuous as a report was received from the department of Baljinder Pal Singh (Principal-debtor) that his salary already stands attached in Execution No.32 dated 11.06.2009 in case titled "State Bank of Hyderabad v. Baljinder Pal Singh", pending in the Court of Civil Judge (Senior Division), Panchkula. It is further submitted that respondent/decreet-holder by raising wrong averments in the application dated 01.07.2015 got the execution proceedings revived and thereafter the Court below has made an order for attachment of salary of JDs No.2 and 3 including the present petitioner. It is further submitted that the impugned order may be set-aside and the order dated 18.04.2015 be restored.

3. I have heard counsel for the petitioner, perused the records but find no merit

in the petition.

4. Counsel for the petitioner has not denied that Sh. Naranjan Singh, the petitioner was held liable to pay the decretal amount being one of the guarantors of the loan obtained by Sh. Baljinder Pal Singh in view of the award dated 28.07.2014 passed under Punjab Co-operative Societies Act, 1961 (for short "1961 Act"). The Executing Court vide order dated 18.04.2015 dismissed the execution application having been rendered infructuous without realising that even if salary of principal-debtor can not be attached for the time being, there is no bar to proceed against other JDs or other property of JD No.1 for realisation of the decretal amount. The error committed by the Executing Court was rightly rectified by revival of the proceedings. As the petitioner is one of the guarantors/ judgment-debtors in the award passed under the 1961 Act, no error much less perversity can be found in the impugned order whereby the Executing Court has sought to attach salary of the petitioner for realisation of the decretal amount.

5. For the afore-discussed reasons, the petition is dismissed. However, the petitioner shall be at liberty to take recourse to appropriate remedy against the principal-debtor, in accordance with law, in respect of the amount recovered from him (petitioner).