
(1989) 07 P&H CK 0097
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1606 of 1988

Rajinder Singh

APPELLANT

Vs

Prem Chand

RESPONDENT

Date of Decision : 19-07-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 38 Rule 5

Citation : (1989) 07 P&H CK 0097

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : A.S. Kalra, for the Appellant; M.L. Sarin with Ms. Jaishree Thakur, for the Respondent

Final Decision : Dismissed

Judgement

J.V. Gupta, J.—This revision petition is directed against the order of the trial Court dated May 4, 1988, whereby the application filed on behalf of the Defendant to set aside the order under Order XXXVIII Rule 5, Code of Civil Procedure, (hereinafter called the Code) was dismissed and the earlier order dated January 4, 1988, was confirmed.

2. A preliminary objection has been raised on behalf of the Plaintiff-Respondent that the impugned order was appealable under Order 43 Rule 1(a) of the Code, having been passed under Order XXXIII Rule 6 of the Code, and that being so, the revision petition as such was not maintainable.

3. After hearing the learned Counsel for the parties, I find force in this contention.

4. The impugned order was passed under Order XXXVIII Rule 6, for attachment of the property belonging to the Defendant as he had failed to furnish security required within the time fixed by the Court. That being so, the said order was appealable under Order 43 Rule 1(a) of the Code. Having failed to file the appeal under Order XXXIII Rule 1(a), the petition is not maintainable.

5. Consequently, the revision petition fails and is dismissed.