
(1990) 11 P&H CK 0128
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 506 of 1990

Surjit Singh

APPELLANT

Vs

Ujaggar Singh

RESPONDENT

Date of Decision : 21-11-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (1991) 99 PLR 552

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : H.L. Sarin and Ashish Handa, for the Appellant; H.N. Mehtani, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—This petition is directed against the order of the trial Magistrate, Malerkotla, dated January 23, 1990, whereby he has declined to cancel the sale certificate pertaining to the sale of petitioner's land held on August 31, 1977, for the realisation of certain amount of maintenance (Rs. 13,000/-) payable to his wife Smt. Mukhtiar Kaur. This sale was concededly affirmed by the Court on May 8, 1978 and even the sale certificate to that effect was issued on June 24, 1988. The relief is sought in the light of two orders passed by this Court on December 5, 1978 and January 22, 1979. These orders are stated to have been passed in proceedings u/s 482, Cr. P.C. against the above noted two orders of the trial Magistrate, i.e., August 31, 1977 and May 8, 1978. Though it is difficult to comprehend under which provision of law the present application is made yet the learned Magistrate chose to put the parties to trial on the following issue :-

"Whether the sale certificate is liable to be set aside as alleged "?

After recording the evidence of the parties, he recorded the conclusion that there were no grounds to set aside the sale or the revocation of the certificate. He also expressed the opinion that the two orders of his Court on which reliance was

placed on behalf of the petitioner, did not, as a matter of fact, set aside the sale at any stage.

2. Having heard the learned counsel for the parties in the light of their respective stands I find no merit in this petition. As a matter of fact the learned counsel for the petitioner is not in a position to refer to any provision of law under which the present application for setting aside the sale or revocation of the sale certificate was filed. Be, how- ever, maintains that it was so done u/s 151, C. P. C. It is difficult to appreciate this stand of the kernal counsel. For the recovery of the maintenance amount awarded u/s 125, Cr. P. C , resort has to be made to Section 421, Cr. P. C. The provisions of CPC are not at all attracted to such recoveries. Further having perused the order passed by this Court on December 5, 1978. I am fully satisfied that firstly, it was only an order adjourning the case to 19th January, 1979 after recording certain points of agreement arrived at between the parties and secondly, the Court did not even remotely set aside the sale as contended by the learned counsel for the petitioner. The other order, i.e., dated January 22, 1979 is only an order dismissing the petition filed by the petitioner. In this order also it was nowhere opined that the sale dated August 31, 1977 stood set aside Above all this, the rights of the auction purchaser, i.e., the present respondent Ujaggar Singh, were never adverted to at any stage in the above noted petitions filed by the petitioner u/s 489, Cr. P. C.

3. Therefore, this petition is dismissed as totally devoid of any merit but with no order as to costs.