

IN THE COURT OF SH. SHIV KUMAR
DISTRICT JUDGE: WEST
TIS HAZARI COURTS; DELHI

Misc. Ex. DJ No. 1/2024 in
Execution no. 584/2022
CNR No. DLWT01-000005-2024

DLWT010000052024



Shri Dhruv Kapoor
S/ Shri Rajeev Kapoor
R/o A/51/1, Third Floor,
Lower Side Panchsheel Vihar
New Delhi-110017

Also at:
R/o : Syal Farm-6, Green Avenue
Vasant Kunj,
New Delhi-110070

..... Decree holder

Versus

Shri Karambir Kambhoj
S/o Shri Anttu Kambhoj
R/o 24/29B, Second Floor
Tilak Nagar,
New Delhi-110018

..... Judgment Debtor.

Date of institution of the objections : 03.01.2024
Date reserved for order on : 18.05.2026
Date of pronouncement of order : 09.06.2026

**ORDER ON THE OBJECTION PETITION FILED BY SH.
MANMEET SINGH LAMBA AND SMT TARAN PREET
KAUR.**

1. Vide this order, I shall decide the objection petition filed Under Section 58 of CPC, on behalf of Sh. Manmeet Singh Lamba and Smt. Taran Preet Kaur against order dated 03.10.2023, passed in execution petition, whereby the property of the JD, bearing no. S-1/20A, Third Floor, Old Mahavir Nagar, New Delhi-18 (*hereinafter to be referred as property in question*), has been attached.

2. It is averred by the objectors that they have purchased the property bearing no. S-1/20A, Mahavir Nagar, New Delhi-110018 from its erstwhile owner and are residing in the said premises and the electricity connection has been taken by the objector no. 1 on 27.02.1998. It is further averred in the objections that the objector no. 1 consists of his wife/objector no. 2, his mother and his children. It is further averred by the objectors that the objectors are residing at the first floor of the property in question and after purchasing this property, they are paying house-tax etc.

3. It is further averred by the objectors that they have already purchased the first floor of above-said property from its erstwhile owner on 07.12.2017, vide sale deed registered on 29.12.2017 and are having the electricity connection energized on 22.07.2018.

4. It is further averred in the objections that the objectors have paid the house-tax in respect of first floor on 22.05.2018 and thereafter, on 08.07.2021, 27.05.2022 and 29.06.2023. It is further

averred by the objectors that the objectors are the husband-wife and have two children. Besides their children, the mother and father of the objector no. 1 are also residing along with them, however, on 30.06.2021, Sh. Narender Pal Singh/father of objector no. 1 expired.

5. It is further averred by the objectors that they were aware that the third floor of the property has been purchased by Sh. Karambir Kamboj from the earlier owner and there is nothing on this floor or roof as none had visited this property earlier. It is further averred that the objectors required the third floor of the property (property in question), therefore, they approached Sh. Karmabir Kamboj, who agreed to sell it for a sum of Rs. 43 lakhs through his wife and after executing the attorney in her favour, he sold the property in question to the objectors.

6. It is further averred by the objectors that Sh. Karambir Kamboj had taken a loan on the property in question from M/s India Bulls Housing Finance Limited and there was a due loan amount of more than Rs. 33 lakhs towards M/s India Bulls and this amount was paid by the objector no. 1 through his account and this fact is reflected in the sale deed dated 28.03.2023 and after purchasing the property in question, the possession of the same has been taken from Sh. Karambir Kamboj through his wife Naina Kamboj.

7. It is further averred by the objectors that the said property was also constructed by the erstwhile owners Sh. Gurjeet Singh and Sh. Gurminder Singh, who had built up this property under

Saral Scheme in 2016. It is further averred that after getting the permission from the MCD under the Saral Scheme, which has been enacted under the Unified Building Bye Laws, 2016 and paid Rs.1,83,693/- on 13.07.2016 by seeking Building Permit-P. It is further averred that the plan was got sanctioned from the MCD. It is further averred that the first floor of the property has been sold by these three erstwhile owners to objectors as well as to Sh. Karambir Kamboj.

8. It is further averred that due to the loan taken by Sh. Karmabir Kamboj, the original sale deeds executed in his favour by the erstwhile owners on 25.08.2017, were deposited with India Bulls, which were released on 13.03.2023 and the objectors can produce the same as and when called upon by the Hon'ble Court.

9. It is further averred that the objectors were surprised when they received a notice affixed around 6.11.2023 for attaching the property in question and thereafter, they tried to contact the persons, who affixed notice by the orders of this Court, however, they could not be traced. The objectors approached an advocate, who after making an inquiry apprised them that there is some loan transactions between the DH and the JD and a decree dated 06.10.2022 has been passed and vide order dated 03.10.2023, the court has attached the property in question.

10. It is further averred that the property in question does not belong to Sh. Karambir Kamboj/JD. It is further averred that the objections have been filed for setting aside the order dated

03.10.2023 as well as the attachment notice issued under order 21 rule 54 CPC.

11. The objectors have filed the objection on the following grounds:

a. The property in question cannot be attached vide order dated 03.10.2023 as the JD has nothing to do with the same.

b. The DH, purposely and deliberately, has not disclosed that the property in question has been sold by the JD to the objectors and has committed fraud upon this court as well as on the objectors.

c. The provision of Order 21 rule 54 CPC is applicable to those properties which are under the ownership of JD but the property in question has been stood sold on 29.03.2023.

d. The objectors are bona fide purchaser of the property in question and the loan of the JD taken on the property in question has been cleared by the objectors.

e. The order dated 03.10.2023 is against the principle of Natural Justice.

f. The order dated 03.10.2023 has been passed without any basis and liable to be set aside.

12. Reply to the objection petition has been filed on behalf of DH.

13. It is contended by the DH that the sale deed was registered on 13.04.2023 through which the objectors claim themselves to be the owners of property in question and the said sale deed is in fact null & void. It is further contended by the DH that the property in question has been attached vide warrant of attachment dated 06.04.2023 issued by the SDM, Patel Nagar, in CT case 6045/20, in the matter titled Poonam Syal Vs Karambir Khamboj.

14. It is further contended by the DH that complaint under Section 138 of NI Act for an amount of Rs. 35,00,000/- was filed against the judgment debtor in August, 2020 by Smt Poonam Syal bearing CT cases 6045/2020 and the same is pending before Ld MM, Patiala House Court, Delhi. It is further contended that vide order dated 31.08.2022, the JD has been declared as an absconder and SHO has been directed to take appropriate steps. It is further contended that vide order dated 16.12.2022, the Ld. Court allowed the application filed by the DH, under section 83 CrPC and directed that warrant of attachment to be issued against the absconder/the JD herein.

15. It is further contended by the DH that vide order dated 10.04.2023, as per report of SDM, the immovable property of JD, stood attached and as per court order, nobody has a right to sell or purchase the property in question.

16. It is further contended by the DH that the property in question has been fraudulently sold by the JD and the said property has been sold through a power of attorney executed by JD, in favour of his wife.

17. It is further contended that the JD was aware about the pendency of above-said case, proceedings initiated under Section 83 CrPC and notices dated 12.01.2023, 25.02.2023 and 27.03.2023. It is further contended that as per statement dated 21.01.2023 of JD' wife, the JD is the owner of the said property

and he is in Dubai and notice dated 27.03.2023 was received by the daughter of the JD.

18. It is further contended that as per report of SDM, the attachment order dated 06.04.2023 was dispatched to all concerned departments, on the same day. Show cause notice was issued to Sub-registrar-II, Janakpuri to explain how the said property could be sold despite warrants of attachment issued on 06.04.2023.

19. It is further contended that objectors admittedly are residing in the property since 1998 and were known to the JD and his wife. It is further contended that it is clear that the objectors and JD have connived and colluded with each other to defraud this Hon'ble Court and deprive the DH. It is further contended that the said property could not have been sold by the JD on 13.04.2023 as the same stood attached on 06.04.2023.

20. Rejoinder has been filed on behalf of the objectors to the reply of the decree holder.

21. Vide order dated 4.12.2024, this court has held that DH has been able to make out a prima facie case under Section 53 of the Transfer of Property Act, regarding transfer of property of property in question made by JD in favour of objectors, being fraudulent in nature and has been made for the purpose of committing fraud with the DH. Therefore, vide order date 4.12.2024, the objections of the objectors were put to trial and following issues were framed:

1. Whether the transfer made by the JD of his property bearing no. S-1/20A, Third Floor, Old Mahavir Nagar, New Delhi-18, in favour of objectors vide sale deed registered on 13.04.2023 was made with the intent to defeat or delay the creditors of JD, including the DH? OPDH.
2. Whether the objectors are bona fide purchaser of the aforesaid property and the transfer of aforesaid property has been made by the JD, in good faith and for consideration to the objectors-Onus of proof upon the objectors.
3. Whether the decree holder is entitled to execute the decree, including from aforesaid property i.e. bearing no. S-1/20A, Third Floor, Old Mahavir Nagar, New Delhi-18, of JD, which has been transferred by the JD to objectors? OPDH.

EVIDENCE ON BEHALF OF OBJECTORS

22. The objectors in order to prove their objections have examined three witnesses.

23. Sh. Manmeet Singh Lamba, the objector has appeared has examined himself as OW-1 and tendered his evidence by way of affidavit Ex. OW-1/A and relied upon the following documents:

1. Ex. OW-1/1 (Colly) (total 11 pages): The copy of electricity bill, Delhi Jal Board Bill and Aadhar Cards of Sh. Narinder Pal Singh, Smt. Surjeet Kaur, Ms Dilsheen Kaur, Master Avraj Singh, himself and Smt. Taranpreet Kaur (objector no. 2). (objected to as regard the electricity bill and Delhi Jal Board Bill being electronic documents and no certificate u/s 65 BSA of 2023 attached).
2. Ex. OW-1/2 (Colly): The copy of sale deed 07.12.2017 in respect of property no. S-1/20A first floor, old Mahavir Nagar, New Delhi. (from page no. 48 to 62 of the list of documents dated 23.12.2023). (objected to as to admissibly mode of proof being photocopy).

3. Ex. OW-1/3 (Colly) : The copy of the property tax challan dated 22.05.2018, 08.07.2021, 27.05.2022 and 29.06.2023 of the list of documents dated 23.12.2023. (from page no. 43 to 47).

(objected to as regard the property tax challan dated 08.07.2021, 27.05.2022 and 29.06.2023 as no certificate u/s 63 BSA of 2023 attached).

4. Ex. OW-1/4: The copy of the receipt dated 13.07.2016 of the MCD for Rs.1,83,693/-, placed at page no. 108 of the list of documents dated 23.12.2023.

5. Ex. OW-1/5 (Colly): The copy of the loan related documents from M/s India Bulls Home loans in the name of Judgment debtor, place at pages no. 105 to 107 of the list of documents dated 23.12.2023. (objected to as to admissibly mode of proof being photocopy).

6. Ex. OW-1/6 (Colly) : Sale Deed dated 25.08.2017 in favour of the judgment debtor in respect of property no. S-1/20A, third floor, old Mahabir Nagar, New Delhi from page no. 63 to 90 of the list of documents dated 23.12.2023.

7. As per L.C. Ex. OW-1/7 is not on record.

8. Ex. OW-1/8: Copy of statement of account at page 104 of the list of documents dated 23.12.2023. (objected to as regard admissibility and mode of proof being a photocopy nor finding the name of the bank issuing the same).

9. Ex. OW-1/9: Sale deed dated 28.03.2023 in his favour alongwith objector no. 2 executed by the judgment debtor, placed at page no. 91 to 103 of the list of documents dated 23.12.2023).

It is pertinent to mention here that OW-1 was permitted to re-examine on 30.06.2025 qua the certificate under section 65-B of the Indian Evidence Act and he exhibited the same as under;

10. Ex. OW-1/10: The certificate under section 65B of the Indian Evidence Act, with respect to electricity bills, statement of account of ICICI Bank, copy of letter of India.

24. The OW-1 has been duly cross-examined by ld. counsel for the DH.

25. Mr. Alok Ranjan S/o late Sh. N.K. Singh, Manager (Legal) working in the Samman Capital Ltd. has been examined as OW-2 and deposed that he has been authorized to appear and make a statement and submit the documents vide Board Resolution dated 12.02.2015 and copy of the same is taken on record 05.07.2024 and exhibited the same as Ex. OW-2/A (OSR).

26. OW-2 further deposed in his examination in chief that the the M/s Samman Capital Ltd was earlier known as M/s India Bulls Housing Finance Ltd. and exhibited the copy of change of certificate dated 21.05.2024 as regard to change to name as Ex. OW-2/B (OSR).

27. OW-2 further deposed that he has brought the summoned record pertaining to the loan account of Mr. Kamabir Kamboj and deposed that Sh. Karambir Kamboj had applied for a housing loan of Rs. 50 lakhs for a period of 20 years in respect of property no. ready built flat no. S-1/20A, 3rd floor without roof right, Old Mahabir Nagar, Tilak Nagar, West Delhi vide application dated Nil on the basis of which a loan of Rs. 40,18,684/- was sanctioned to him and a copy of loan application is exhibited as Ex. OW-2/C (OSR).

28. Copy of the loan sanction letter dated 17.08.2017 is Ex. OW-2/D (OSR)

29. Copy of Loan Agreement No. HHLLAJ00357002 is Ex. OW-2/E (OSR) (Running into 12 pages).

30. OW-2 further deposed that the loan has been fully repaid and finally adjusted on 10.04.2023 and copy of the statement of account in this regard is Ex. OW-2/F (running into 9 pages). OW-2 further deposed that all the original documents submitted by the applicant Sh. Karabir Kamboj were returned on 17.04.2023 alongwith NOC to his Power of Attorney Ms Naina Kamboj. The acknowledgment dated 17.04.2023 of having received all the documents is Ex. OW-2/G (OSR) (7 pages).

31. OW-2 further deposed that certificate u/s 63 of BSA, 2023 issued by him running into 3 pages in respect of the Certificate of incorporation is Ex. OW-2/B, the Board Resolution is Ex. OW-2/A and the statement of account is Ex. OW-2/F is Ex. OW-2/H.

32. OW-2 was tendered for cross-examination but he was not cross-examined by Id. counsel for the DH despite giving opportunity.

33. Ms Karishma Manral, Associate working in LIC Housing Finance Ltd has been examined as OW-3 deposed that he has brought the summoned record pertaining to Sh. Manmeet Singh Lamba and Ms Taranpreet Kaur and relied upon the following documents;

i) Ex. OW-3/A : Copy of his I card.

ii) Ex. OW-3/B: Copy of sanction letter dated 22.02.2023.

- iii) Ex. OW-3/C (OSR) (Colly) (Running into 16 pages) : A title search report dated 06.03.2023 of Sh. Subhash Gupta, Advocate
- iv) Ex. OW-3/D (ORS): Copy of GPA executed dated 03.02.2023 by Sh. Karanbir Kamboj through his attorney Ms Naina Kamboj.
- v) Ex. OW-3/D1 (OSR): Copy of sale deed dated 28.03.2023 executed in favour of Smt. Taranjeet Kaur and Sh. Manmeet Singh.
- vi) Ex. OW-3/E (OSR): Copy of sale deed dated 25.08.2017 in respect of purchasing of property by Sh. Karambir Kamboj from Sh. Gurjeet Singh, Sh. Mukesh Bharija and Sh. Gurminder Singh.
- vii) OW-3 further deposed that this property was under loan from M/s India Bull Housing Finance Ltd which was foreclosed and fresh loan was extended by M/s LIC Housing Finance Ltd. OW-3 further deposed that the NOC issued by M/s India bull Housing Finance Lt. Alongwith Statement of Accounts, Sanction letter, Copy of Draft and the payment made by LIC Housing Finance Ltd is Ex. OW-3/F (OSR).
- viii) OW-3 further deposed that out of the total loan sanctioned and having made the payment to India bulls Housing Finance Ltd., the excess amount of Rs. 1 lakh was paid to Sh. Karambir Kamboj vide draft Ex. OW-3/G (OSR).
- ix) Ex. OW-3/H: The valuation report dated 04.03.2023 of the property.
- x) Ex. OW-3/I (running into 58 pages): Copy of loan agreement alongwith irrevocable power of attorney attested on 04.03.2023.

34. OW-3 has been cross-examined by ld. counsel for the petitioner and in the cross-examination he deposed that he cannot

tell the date of application of loan off hand as he has not brought the application form.

Evidence on behalf of the Decree Holder

35. The Decree holder in order to prove his case examined himself as DHW-1 and tendered his evidence by way of affidavit Ex. DHW-1/A. DHW-1 relied upon the following documents:

1. Certified copy of the order dated 31.08.2022 as Ex. OW1/DH-3A and certified copy of the order dated 16.12.2022 as Ex. OW1/DH/4.
2. Certified copy of order dated 10.04.2023 as marked as Ex. DHW-1/1. (Original available in the case file brought by the Ahlmad)
3. Certified copy of the report dated 08.04.2023 filed by the SDM, Patel Nagar as Ex. DWHW-1/2. (Original available in the case file brought by the Ahlmad).

(Objected to by the Id. counsel fr the objector as to the admissibility of these documents being related to the complaint case wherein the DH is not a party).

4. Certified copy of the order dated 06.04.2023 of the SDM as Ex. OW-1/DH6. (Original available in the case file brought by the Ahlmad)
5. Certified copy of the Notice dated 27.03.2023 as Ex. OW-1/DH5. (Original available in the case file brought by the Ahlmad).
6. Certified copy of the Inspection Application dated 16.03.2023 moved by Shri K.K. Tiwari, Advocate along with certified copy of the Vakalatanama of Shri K.K. Tiwari, Advocate as Ex. OW-1/DH7. (Original available in the case file brought by the Ahlmad).

7. Certified copy of the order dated 03.02.2024 of the SDM as Ex. DHW-1/3. (Original available in the case file brought by the Ahlmad).
 8. Copy of the order of the court dated 23.02.2024 as Ex. DHW-1/4. (Original available in the case file brought by the Ahlmad)
- (ld. counsel for the objector objected on the exhibition of documents Ex, DHW-1/1, Ex. DHW-1/2, Ex. DHW-1/3 & Ex. DHW-1/4 as to the admissibility of these documents being related to the complaint case wherein the DH is not a party).
36. DHW-1 has been duly cross-examined on behalf of ld. counsel for the objectors.

FINAL ARGUMENTS

37. I have heard final arguments on behalf of both the parties and perused, the written arguments filed on behalf of the DH and objectors.

WRITTEN ARGUMENTS ON BEHALF OF THE OBJECTORS.

38. Ld counsel for the objectors has argued that perusal of record would show that the objector in the present matter who examined as OW-1 was not given any suggestion with regard to the fact that the order of attachment was ever conveyed to the objector of the complaint case where Section 82 C.r.P.C proceeding were taken place against judgment debtor and an attachment order was passed on 16.12.2022.

39. Ld counsel for the objectors has argued that in the cross-examination of OW-1, no material or suggestion has been given as in the issues framed by this Hon'ble Court, the first issue with regard to the effect that the transfer made by Judgment debtor of his property in favour of objector was to defeat or delay the creditors of the judgment debtor.

40. Ld counsel for the objectors has argued that the onus of proof was on decree holder and the decree holder failed to discharge this onus. The issue No. 2 with regard to the fact that the objectors are the bonafide purchasers was on the objectors. A perusal of record would show that in the record of OW-2 and OW-3 clearly shows that firstly when this property was purchased in 2017 by the judgment debtor, he took a loan /housing loan and mortgaged his property to the India bulls Private Ltd and furthermore at the time of purchase of this property by the objectors, the amount of 33 lakhs was paid to India Bulls directly by the LIC Housing Finance Ltd. No evidence has come on record that the order dated 16.12.2022 or 06.04.2023 was ever affixed or brought to the knowledge of the objectors.

41. Ld counsel for the objectors has argued that a perusal of record would show that the counsel for the decree holder is trying to create confusion/controversy that the order of attachment will be recognized from 16.12.2022 and not from 06.04.2023 when the SDM Patel Nagar, under whose jurisdiction the property in question falls, which has been attached is to be recognized.

42. It is further argued that the provisions contained in Section 83(2) of the C.r.P.C. are in two parts, first provides that a property shall be authorized to be attached where it falls in the same district where the court passes the order and other part provides that it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situated. The word 'shall authorize' endorsement/attachment by the District Magistrate i.e. in the present case the SDM Patel Nagar, no property can be attached as till the time it reaches the person or the property has set to have come in operation. In the present matter it is on 06.04.2023 when the attachment order was passed by the SDM Patel Nagar. Therefore, before the passing of such order, the sale deed has been executed to be presented for registration on 28.03.2023 which was presented for registration on 29.03.2023. Therefore, there is a clear cut falsity in the arguments of the counsel for the decree holder. This thing can be further made applicable from the provision of Code of Civil Procedure where a property as attached by this Hon'ble Court, there is a provision for issuing attachment warrant of the property and from the that day when the attachment warrant is affixed on the property the property stands attached. IO.

43. It is further argued that this makes it very clear and categorical that the objector has purchased this property and only with regard to loan he can verify and there is no provision for verifying any court proceedings nor the decree holder has brought any evidence to show that it is in the knowledge of the objector. The decree holder relies upon the inspection of the file dated

06.03.2023, it is submitted that the GPA executed by the judgment debtor in favour of his wife is 03.02.2023 and the proceedings which is going on before the SDM Patel Nagar also not create any knowledge on the part of the objector.

44. It is further argued that the decree holder is relying upon the judgment of the Hon'ble High Court of Delhi which was delivered by the Division Bench titled as Sonu Bhati v. Archana Jain decided on 13.01.2025, it is submitted that the facts of that case are totally different as the status quo order was passed on 02.11.2025 and the same was made absolute on 29.03.2016 and thereafter the respondents have broken the lock on 05.08.2016 and they were appearing in the matter. Those facts cannot have any implication or bearing in the facts of the present case. It has been a settled proposition of law that the facts of a particular case makes the judgment applicable.

WRITTEN ARGUMENTS ON BEHALF OF THE DH

45. It is averred in the written arguments that the DH relies on the documents exhibited and submits that the property in question stood attached vide order dated 16.12.2022 passed by the Ld. M.M. in CT Cases 6045/2020 and further warrant of attachment dated 06.04.2023 issued by the SDM, Patel Nagar in CT cases 6045/2020, in the matter titled Poonam Syal Vs Karambir Khambhoj.

46. It is further averred in the written arguments that the property in question was fraudulently sold by the seller, who at the

time had knowledge of the attachment order dated 16.12.2022 and the attachment dated 06.04.2023, having accepted service of notices issued in pursuance of the order dated 16.12.2022. It is further averred that the property in question was sold through a power of attorney executed by JD in favour of his wife. The JD was aware of the pendency of the proceedings in CT Cases 6045 of 2020 and the proceedings initiated under S.83 CrPC.

47. It is further averred that notices dated 12.01.2023, 25.02.2023 and 27.03.2023 were issued to the JD by the concerned SDM. It is further averred that perusal of the report of the PS, Tilak Nagar dated 30.01.2023 makes it clear that the said notice was accepted by his wife, Smt. Naina Kambhoj. It is further averred that JD is the owner of the suit property and he is in Dubai and the notice dated 27.03.2023 was received by the daughter of the J.D. It is further averred that the property in question could not have been sold by the JD on 13.04.2023 as the same stood attached on 16.12.2022 itself.

48. Ld. counsel for the DH has relied upon the judgment passed by Hon'ble Supreme Court, in a case title Ram Saran & Others Vs Mst. Domini Kuer & Others, AIR 1961 SC 1747. Ld. counsel for the DH has further relied upon the judgment of Hon'ble Supreme Court of India passed in a case titled Kanwar Raj Singh (D) Thr. LRs Vs. Gejo (D) Thr LRs & Ors 2024 LiveLaw (SC) 4.

49. It is further averred that apart from this, the objectors have argued that there is a bar under SARFAESI Act to the attachment

by the Ld. MM dated 16.12.2022. It is further averred that this arguments is being advanced only to confuse the Id. courts. SARFAESI Act has absolutely no application to the facts of the present case. It is further averred that the objectors have not produced a single notice or any document to show that machinery of SARFAESI Act was initiated in the present case. Only one attachment order was pending qua the said property that is order dated 16.12.2022 passed in CT cases 6045/2020 which was operational prior to the sale of the property on 13.04.2023 and the judgment relied on by the objectors in respect of this have no bearing to the facts of the case.

50. It is further averred that objectors have argued that the attachment was defective under section 83 of the Cr.PC and objectors further argued that date of attachment would constitute attachment by the SDM on 06.04.2023 and not vide order dated 16.12.2022. It is further submitted that this argument is flawed as attachment of the property is ordered by the court and the SDM is only executing and complying with orders passed by the court. It is further submitted that for the present execution, the property stood attached on 16.12.2022. That order was passed in another proceedings and has till date not been set aside. SDM after issuing notices on 12.01.2023, 25.02.2023 and 27.03.2023 attached the property on 06.04.2023 in pursuance of order of attachment dated 16.12.2022.

51. It is further averred that even from a plaint reading, it is clear that attachment is ordered by the court and it only authorized the concerned SDM of the area where the property is situated, to

attach property. It is further submitted that in the present case, the concerned SDM, Patel Nagar attached the property pursuant to order dated 16.12.2022 passed by the Hon'ble court in CT 6045/2020. The objectors cannot question the attachment under section 83 Cr.P.C in these proceedings.

52. It is further averred that the scope and ambit of attachment under 83 Cr.PC is to secure presence of accused while under present jurisdiction it is to execute the decree. Both are mutually exclusive, and submitted that objections deserves to be dismissed with exemplary costs.

My Issue wise findings

Findings on Issue no. 1

1. Whether the transfer made by the JD of his property bearing no. S-1/20A, Third Floor, Old Mahavir Nagar, New Delhi-18, in favour of objectors vide sale deed registered on 13.04.2023 was made with the intent to defeat or delay the creditors of JD, including the DH? OPDH.

53. The onus to prove issue no. 1 is upon the DH. In order to prove this issue, DH has examined only one witness i.e. Decree holder himself as DHW-1.

54. DHW-1 has deposed that property in question has been fraudulently sold by the JD, who had knowledge of the attachment order dated 06.04.2023, having accepted services of the notices issued in pursuance of order dated 16.12.2022. He further deposed that the property in question was sold through a power of attorney executed by JD in favour of his wife. He further deposed that JD

was aware of the pendency of the proceeding of CT case bearing no. 6045 of 2020 and the proceedings initiated under section 83 Cr.P.C.

55. DHW-1 further deposed that notices dated 12.01.23, 25.02.23 and 27.03.23 were issued to the JD by the concerned SDM. He further deposed that perusal of the report of P.S. Tilak Nagar, dated 30.1.23, makes it clear that the said notice was accepted by his wife Ms Naina Kamboj. He further deposed that statement of the wife of the JD dated 21.01.23 is also on record, wherein she stated that the JD is the owner of the said property and he is in Dubai. He further deposed that notice dated 27.03.23 was received by the daughter of the JD.

56. DHW-1 further deposed that JD has been deliberately avoiding the process. He further deposed that JD has been keeping a watch over the proceedings of CT case bearing no. 6045/2020 and even authorized inspection of the file through his counsel, who filed Vakalatnama in the said matter in order to inspect the file. He further deposed that the Vakalatnama and inspection application is Ex. OW-1/DH7. He further deposed that despite having been served in the matter as stated above, the JD in connivance with the objectors, sold the property in question deliberately, violating the attachment order, therefore, the said sale deed registered on 13.04.2023 is void ab initio and the objectors have no locus in the present execution petition.

57. During cross-examination, DHW-1 deposed that the JD was aware of order dated 16.12.2022 as he got the file inspected

through his counsel. He further deposed that he does not remember the name of that counsel who inspected the file on behalf of Sh. Karambir Kamboj. He further deposed that he does not remember when he came to know that the file has been inspected on behalf of Sh. Karambir Kamboj however, he was informed by his counsel about the inspection of file on behalf of Sh. Karambir Kamboj. He further deposed that he does not remember when his counsel informed him about the said inspection. He further deposed that he was not present with the police officials of P.S. Tilak Nagar when the statement of wife of the Jd was recorded on 21.01.23. He further deposed that notice dated 27.3.23 was not served upon daughter of JD in his presence. He further deposed that he cannot say whether the order dated 16.12.22 was affixed on the property in question, however, he was informed by his counsel that some order has been affixed on the property in question. He further deposed that he or his mother never accompanied any police official or any official from the SDM office for the purpose of affixation of order dated 16.12.22 or 6.4.23 on the property.

58. DHW1 further deposed that he was not aware that the balance amount of Rs. 33,40,000/- was paid by LIC Housing Finance Ltd. on 23.03.2023 to India Bulls (towards the loan earlier taken by JD for purchase of the suit property) by the objectors for purchase of this property.

59. Ld. counsel for the objectors has objected the exhibition of documents by DHW1as Ex, DHW1/1 to Ex. DHW1/4 on the ground of admissibility of these documents being related to the

complaint case when the Decree Holder is not a party. Ld. counsel for the objectors has also objected to Ex. OW1/DH1 to Ex. OW1/DH3, Ex. OW-1/DH3A and Ex. OW1/DH4 to Ex. OW1/DH7.

60. During cross-examination of OW1, all these documents are certified copies of orders and proceedings conducted before Ld. MM/04/NDD, in complaint case under section 138 N.I. Act, filed by DH against JD. Being certified copies, these documents are admissible in evidence. Moreover, original case file of above complaint case had also filed during the evidence of DH. Therefore, objections of ld. counsel for the objectors stand overruled and these documents are considered as admissible in evidence.

61. As per order dated 31.08.2022, passed by Sh. Udbhav Kumar Jain, Ld MM-04, NI ACT/ RACC/NDD in CC no. 6045-2020 titled as Poonam Syal Vs Karambir Kambhoj, the JD has been declared as an absconder and the said order is reproduced as under:

“ Process server has submitted that despite best efforts, accused Karambir Kamboj could not be found. Separate statement of process server who executed the process u/s 82 Cr. P.C. against accused is recorded whereby I am satisfied that process u/s 82 Cr.PC has been properly executed against the said accused and it appear that either the said accused is absconding or concealing himself. Annexure C in compliance of judgment passed by Hon’ble High Court in Sunil Tyagi Vs. State is taken on record. Heard. File Perused. Accordingly, accused Karambir Kamboj is hereby declared as an absconder. Let intimation of the order be sent along with copy of this order-sheet to the SHO concerned to bring to his knowledge that the accused has been

declared as an absconder today in this case. SHO concerned is also directed to take appropriate steps in accordance with law and file a compliance report in this regard. Ahlmad to issue the process today itself”.

62. It is pertinent to mention that on 16.12.2022, Ld. MM/04/NDD has passed two orders for attachment of property of accused/Karambir Kambhoj under Section 83 CrPC. The second order regarding attaching the property in question was not filed on record by Ld counsel for the DH, before framing of issues in the present case. The attachment order dated 16.12.2022 in respect of property in question has been filed by the DH during evidence and first time this order came into the notice of court at the time of hearing arguments after conclusion of evidence.

63. From document Ex. OW1/DH2 (Warrant of arrest) it is proved that ASI Amar Singh alongwith NBW of JD1, visited the property in question and met with wife of JD on the property in question. The wife of JD stated to him that Sh. Karambir Kambhoj (JD) did not reside there and he resided at Dubai and did not talk with her and children. She further stated that there are strained relations between her and Sh. Karmabir Kambhoj.

64. From document Ex. OW-1/DH3 (proclamation u/s 82 of Cr.PC, it is proved that ASI Krishan Pal visited to the property in question for executing the proclamation of JD issued u/s 82 Cr.PC and the proclamation had to be executed before NDOH i.e. 31.08.2022. Ms. Naina Kambhoj wife of JD met him and she told that her husband did not reside there. ASI Sh. Krishan Pal made local inquiry and came to know from the neighbour that the

property is question is of JD and JD sometime used to visit the property in question. ASI Sh. Krishan Pal gathered the nearby person and told them about proclamation of 82 Crpc against JD and also got munadi in the locality. He also affixed one copy of proclamation u/s 82 CrPC on the main gate and another copy on the notice board of the court. This report is also forwarded by inspector-law & order, PS Tilak Road on 30.08.2022.

65. From Ex. OW1/DH3/A, it is proved that JD was declared absconder by the court of Ld. M.M.-04(NI Act) in complaint case filed u/s 138 N.I. Act on 31.08.2022.

66. From report of SDM Ex. DHW1/21 filed before Id. MM, it is proved that the SDM, Patel Nagar had issued notices to the JD, Sh. Karambir Kambhoj through PS Tilak Nagar and one of the notices was received by wife of the JD and she gave her statement dated 21.01.2023 to HC Varun Kumar that she runs her beauty parlour and JD is her husband and the house is their own house. She further stated in her statement that her husband resides in Dubai and she use to talk with him on phone.

67. As per Ex OW-1/DH-5, it is proved that Assistant Collector issued notices dated 12.01.2023, 25.02.2023 and 27.03.2023 to the JD for depositing amount of Rs. 35 lac and submits details of assets, income and expenditure. The said notices were received by the daughter and wife of the JD.

68. On 21.01.2023, in pursuance of notice dated 12.01.2023, Ms. Naina Kambhoj, wife of JD gave statement to HC Sh. Varun

Kumar that her husband has not been residing with her since last 5 years and at presently he is residing in Dubai and he used to talk her on phone only. HC Sh. Varun recorded statement of wife of JD and she also signed the said statement..

69. As per document Ex. OW-1.DH1 an application for inspection of case file of complaint case u/ 138 N.I. Act filed by DH against the JD and vakalatnama has been filed on behalf of JD in the court of Ld. MM-04 (N.I.Act) on 16.03.2023. The vakalatnama is bearing signature of JD and the application has been filed on behalf of JD by ld. advocate Sh. V.K. Tiwari for inspection of the said case file. The Ld. M.M. allowed the inspection and file was inspected on 16.03.2023 from 3.20 p.m. to 3.54 p.m. by the abovesaid counsel.

70. From the abovesaid facts, it is clear that JD and his wife had the knowledge about issuing ofailable warrant, NBW, process under Section 82 Cr.PC against the JD, attachment of property in question under section 83 of Cr. PC in complaint case filed by the complainant under Section 138 NI Act. It is also in the knowledge of the JD and his wife that JD has been declared as an absconder by Ld MM-04/NDD vide order dated 31.08.2022 but despite that JD sold the property in question to the objector through his wife by executing SPA in her favour in Dubai.

71. As per sale deed dated 28.03.2023, the wife of the JD has executed sale deed of the property in question in favour of the objectors, on the basis of GPA executed by her husband in her favour on 03.02.2023. The GPA has been executed by the JD in

favour of his wife just after 12-13 days of receiving notices of attachment of property of JD. The abovesaid facts, clearly, depicts that the proceedings for declaring JD as an absconder and the process initiated for attachment of property of JD, were in the knowledge of JD and his wife and in order of evade the due process of law and to save his skin from making payment to DH, the JD executed GPA in favour of his wife on 03.02.2023 from Dubai and on the basis of said GPA, the wife of JD sold the property in question to the objectors.

72. In view of evidence of DH as well as documents exhibited by DH in his evidence and during cross-examination of OW1, it is proved that the JD has sold the property in question to the objectors with intent to commit fraud upon the DH as well as for the purpose of delaying or preventing the DH from realizing the decretal amount from JD. Accordingly, issue no. 1 is decided in favour of DH and against the objectors.

Findings on issue no. 2

2. Whether the objectors are bonafide purchaser of the aforesaid property and the transfer of aforesaid property has been made by the JD, in good faith and for consideration to the objectors-Onus of proof upon the objectors.

73. The onus to prove issue no. 2 is upon the objectors. In order to prove the said issue, the objectors have examined three witnesses and the details of the said witness are as under:

1. Sh. Manmeet Singh Lamba (objector himself) (OW-1).

2. Mr. Alok Ranjan, Manager (Legal) Samman Capital Ltd. (OW-2).
3. Ms Krishma Manral, working as associate in LIC Housing Finance Ltd. (OW-3).

74. OW-1 has deposed in his affidavit in evidence that he was very much aware of the fact that third floor of the property bearing no. S-1/20A, Mahavir Nagar, New Delhi (property in question) has been purchased by sh. Karambir Kambhoj from earlier owner and there is nothing on this third floor or roof as none has visited the property earlier. He further deposed that he required the third floor, therefore, he alongwith his wife approached Sh. Karambir Kambhoj, who agreed to sell the property in question for Rs. 43 lakhs through his wife. He further deposed that after executing the attorney in her favour, he sold the property in question to the deponents.

75. OW-1 has further deposed in his affidavit in evidence that Sh. Karambir Kambhoj had taken a loan on the property in question from M/s India Bulls Housing Finance Ltd and there was a payment of more than Rs. 33 lakhs to M/s India Bulls and this amount was paid by him through his account and this fact is also reflected in the sale deed dated 28.03.2023. He further deposed that after purchasing the property in question, he took the possession of the property in question from Sh. Karambir Kambhoj through his wife.

76. OW-1 further deposed that the property in question was purchased by him and his wife by taking loan from LIC Housing Finance Ltd. and LIC Housing Finance Ltd issued draft in favour

of India Bulls Housing Finance Ltd. OW-1 further deposed that at no point of time he, his wife and his mother ever received any notice of the case filed by the DH or notice of the execution petition.

77. OW-1 further deposed that at the time when the attachment was made on 3.10.2023, the property in question was not of the JD but it was purchased by him and his wife.

78. OW-1 further deposed that the prior charge upon the property in question was of M/s India Bulls Housing Finance Ltd and which later on vested in M/s LIC Housing Finance Ltd.

79. During cross-examination OW-1 deposed that he was not aware any other issue relating to property nor he required about any other issue relating to property. He further deposed that on seeing the certified copy of warrant of arrest issued against the JD in that case, he says that he is not aware of the same. He further deposed that he is not aware that proceedings for declaring the JD as absconder were initiated against the JD and a proclamation was issued against him on 25.06.2022 in pursuance of order dated 09.06.2022 and a report dated 29.07.2022 was submitted. He further deposed that he is not aware that the JD was declared as absconder by the court vide order dated 25.07.2022 in that case and the property was attached by the court vide two separate orders dated 16.12.2022. He further deposed that he is not aware of the notices dated 12.01.2023, 25.02.2023 and 27.03.2023 issued by Asstt. Collector and were accepted by the wife and daughter of the JD.

80. OW-1 has further deposed that he cannot say that the JD did not personally come to execute the sale deed as he was aware that he has been declared as absconder and the property stands attached and the sale deed is in violation of the attachment order. He further deposed that he cannot say that attorney had no right to execute the sale deed as attorney of JD as she was fully aware of the proceeding going on and also the attachment of the property.

81. OW-2 deposed that Sh. Karambir Kamboj has applied for a housing loan of Rs. 50 lakh for a period of 20 years in respect of property in question vide loan application Ex. OW-2/C and on the basis of which, loan of Rs. 40,18,684/- was sanctioned to him. He also exhibited loan sanctioned letter dated 17.08.2017 as Ex. OW-2/D (OSR) and loan agreement as Ex. OW-2/E.

82. OW-2 further deposed that the loan has been fully repaid and finally adjusted on 10.04.2023 and copy of statement of account in this regard is Ex. OW2/F.

83. Ld. counsel for the DH has not cross-examined OW-2 despite giving opportunity, therefore cross-examination on behalf of DH is Nil.

84. OW-3 deposed that house loan of Rs. 40 lakhs was sanctions to the objectors for 20 years in respect of the property in question vide sanction letter dated 22.02.2023 Ex. OW-3/B. She further deposed that the property in question was sold by Sh.

Karambir Kamboj through his attorney/Ms Naina Kamboj to the objectors vide sale deed dated 28.03.2023 Ex. OW-3/D1.

85. OW-3 further deposed that the property in question was under loan from M/s India Bulls Housing Finance Ltd which was foreclosed and fresh loan was extended by M/s LIC Housing Finance Ltd. OW-3 further deposed that after making the payment to M/s India Bulls Housing Finance Ltd., the excess amount of Rs. One lakh was paid to Mr. Karambir Kamboj vide draft Ex. OW-3/G.

86. During cross-examination only one question has been asked to OW-3 on behalf of DH which is as follows:

Q. Can you tell when the loan was applied for?

Ans: I cannot tell the date of application of loan off hand as I have not brought the application form.

87. From the evidence of OW1 to OW3, it is proved that before the date of purchase of property in question on 28.03.2023, by the objectors, the property in question was mortgaged with M/s India Bulls Housing Finance Ltd. It is also proved that the objectors took loan of Rs. 40 lakh from M/s LIC Housing Finance Ltd. for purchasing the property in question from the JD. It is also proved that M/s LIC Housing Finance Ltd. paid an amount of Rs. 33 lakh 40 thousands to M/s India Bulls Housing Finance Ltd. for foreclosure of the mortgaged loan of JD, taken on the property in question. The objectors have paid total amount of Rs. 43 lakh to the JD for purchase of property in question i.e. Rs. 8,60,000/- by way of pay order, Rs. 1,00,000/- by way of cheque and Rs.

33,40,000/- by way of loan adjustment with M/s India Bull Finance Ltd.

88. No suggestion has been given to the objectors that he was aware about the proceedings of complaint case filed u/s 138 N.I. Act, judgment/decreed dated 06.10.2022 passed against JD, pendency of present execution before purchasing the property in question by the objectors. There is no evidence on record that the objectors have knowledge about the attachment order passed by Id. MM-04 under section 83 Cr.P.C on 16.12.2022. There is also no evidence on record that the objectors were aware about above said proceedings/facts. There is also no evidence on record that the objectors had connived and colluded with the JD for the purchase of property in question.

89. There is no evidence on record that the objectors had any malafide intention in purchasing the property in question. The property in question has been purchased for Rs.43 lakh and amount of Rs. 40 lakh has been paid by the objectors by taking loan from M/s LIC Housing Finance Ltd and by way of repaying the earlier mortgaged debt of Rs. 33,40,000/- on the property in question to M/s India Bulls Housing Finance Ltd. Therefore, it is held that the objectors have succeeded in proving that they are bonafied purchaser of the property in question.

90. Accordingly, issue no. 2 is decided in favour of the objectors and against the DH.

Issue no.3.

3. Whether the decree holder is entitled to execute the decree, including from aforesaid property i.e. bearing no. S-1/20A, Third Floor, Old Mahavir Nagar, New Delhi-18, of JD, which has been transferred by the JD to objectors? OPDH.

91. Ld. counsel for the DH has argued that from the record of CT case 6045/2020, summoned and duly exhibited, it is proved that the JD knew the passing of order of attachment of property in question dated 16.12.2022 and despite that in violation of the said order, JD sold the property in question. It is further argued that the objectors admittedly are residing in the property since 1998 and were admittedly known to the JD and his wife and have connived and colluded with each other to defraud this Hon'ble court and deprive the DH.

92. It is further argued that sale of property in question is in violation of orders of the court and therefore non est in the eyes of law. It is further argued that it is no more res integra that transfer of immovable property in violation of an order of injunction or prohibition issued by court of law, confers no right, title or interest in the transferee. Ld. counsel for the DH has relied upon the judgment of Sujit Singh Vs Harbans Singh 1995 SCC (6) 50, of the Hon'ble Apex Court. Ld. counsel for the DH further relied upon the judgments titled Sonu Bhati & Anr Vs Archana Jain & Ors LPA 23/2025 decided on 13.01.2025.

93. It is further argued that Section 47 of the Registration Act is not applicable to the facts of the present case. It is further argued that section 47 applies to a document only after it has been validly

registered, and it provides that it will operate from an earlier date, that is, date of execution. The section, therefore, comes into play after a valid registration of a document. It is further argued that in the present case, the registration of the sale deed was on 13.04.2023, after passing of the order of attachment dated 16.12.2022 by the Hon'ble court in CT case 6045/2020 and after attachment of the property by the SDM, Patel Nagar on 06.04.2023. Therefore the registration itself was null and void, in violation of court order and therefore non est. Once the registration itself is void, the sale could not be said to be complete. It is further argued that for completion of sale, the document of sale requires to be compulsorily registered under section 54 of the Transfer of Property Act.

94. Ld counsel for the objectors has argued that the copy of the attachment order states that the ld. JMFC has attached the property without specifying that the property in question belongs to the proclaimed person as provided under Section 83(1) of the C.r.P.C. It is further argued that the Hon'ble Allahabad High Court in a case titled Faiyaz Abbas v. State of U.P. and Ors reported as 2024 SCC On Line All 4851, has held that there has to be a prima facie finding is to be given by the JMFC in this regard and Para 17 of the judgment is very much clear on this point and further the Hon'ble Allahabad High Court has relied upon the judgment of Hon'ble Privy Council and the Hon'ble Supreme Court of India in Para 20 and 21 of the judgment that whenever there is a procedure law prescribed that a thing be done in a particular manner following a particular procedure shall be done in the same manner

following the provision of law without deviating from the prescribed procedure.

95. Ld counsel for the objectors has further argued that this Hon'ble Court has vide order dated 03.10.2023 attached the property in question and perusal of order would show that this court has not given any prima facie finding with regard to the fact that property belonging to the Judgment Debtor as required under Section 60 of the Code of Civil Procedure. It shall be pertinent to point out here that the para 20 and 21 of the judgment of Faiyaz Abbas,. State of U.P. and Ors reported as 2024 SCC OnLine AH 4851, it has been clearly and categorically stated that whatever the law requires to be done in a particular manner then that particular manner is to be followed.

96. Ld counsel for the objectors has argued that furthermore, the property in question as per the case of the decree holder has . already been attached under Section 83 of Cr. PC, then this cannot be attached twice.

97. Ld counsel for the objectors has argued that in these circumstances, the objection petition filed by the objectors be allowed and the order dated 03.10.2023 attaching the property be re-called in respect of property bearing No. S-1/20A, Third Floor, Old Mahavir Nagar.

98. Ld. counsel for the DH and objector have filed on record copy of order dated 9.3.2026 passed by ld. JMFC-04/PHC/NDD, in complaint case, on the objections filed by objectors against

attachment of property under section 83 Cr.P.C. On 16.12.2022, the Id. M.M. has dismissed the objections of objectors and kept the property in question at the disposal of State government. So, as per this order, the property in question is of State government and State government can sell the said property by way of auction under section 85 Cr.P.C.

99. The objections have filed copy of suit filed by them in the Court of Id. District Judge, for challenging the order of Id. JMFC/04/PHC/NDD and in that case, Id. District Judge has passed interim stay order against State and restrained the state from taking coercive steps against the objectors vide order dated 02.04.2026.

100. It is pertinent to mention that when this court passed the order for attaching the property of JD vide order dated 03.10.2023, the property was already sold by the JD to objectors. So, before attachment of the property of JD by this court, the property in question was not in the name of JD and it was already sold to the objectors. The objectors has purchased the property in question before passing of attachment order by this court on 03.10.2023.

101. Section 64 of CPC is relevant in this case and is reproduced as under:

64. Private alienation of property after attachment to be void-

(1) Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of any debt,

divided or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

(2) Nothing in this section shall apply to any private transfer or delivery of the property attached or of any interest therein, made in pursuance of any contract for such transfer or delivery entered into and registered before the attachment.

Explanation- For the purpose of this section, claims enforceable under an attachment include claims for the reteable distribution of assets.

102. The sale deed of objectors (dated 28.03.2023) is not hit by section 64 of CPC as the property in question was already sold by JD to objectors before passing of attachment order by this court vide order dated 03.10.2023.

103. The order regarding attachment of property in question was passed by criminal court u/s 83 Cr.PC, as a coercive step to secure the presence of accused/JD in that criminal case. The said order is also upheld by Ld. JMFC-04 (NI Act) PHC/NDD vide order dated 09.03.2026 by dismissing the objections of the objectors and by holding that the property in question is now at the disposal of State government, in terms of section 85(2) of Cr.P.C.

104. Section 84 Cr.P.C. is relevant in this case and is reproduced as under:

Section 84 Cr.P.C.: Claims and Objections to attachment.

If any claim is preferred to, or objection made to the attachment of, any property attached under section 83, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under section 83, the claim or objection shall be inquired into, and

may be allowed or disallowed in whole or in part; Provided that any claim preferred or objection made within the period allowed by this Sub-Section may, in the event of the death of the claimant or objector, be continued by his legal representative.

- 1. Claims or objections under Sub-Section (1) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed under Sub-Section (2) of section 83, in the Court of the Chief Judicial Magistrate of the district in which the attachment is made.*
- 2. Every such claim or objection shall be inquired into by the Court in which it is preferred or made; Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.*
- 3. Any person whose claim or objection has been disallowed in whole or in part by an order under Sub-Section (1) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.*

105. As per section 84 (4) of Cr.P.C, if objections filed by the objectors under section 84 Cr.PC, has been dismissed then the objectors have right to institute a suit to establish their rights in the attached property and the attachment order shall be conclusive subject to result of such suit.

106. So the objectors have right to institute a suit against dismissal of their objections filed against the attachment of property in question under section 84(4) Cr.P.C. The objectors have filed the said suit titled Manmeet Singh Lamba & Ors Vs Poonam Syal & Anr., Civ DJ 310/2026 before Id. District Judge-05, West District, Tis Hazari, Delhi and interim stay order dated 2.04.2026 has also been passed against the SDM for restraining him from taking coercive steps against the property in question. So, the issue as to whether the objectors have any right, title or interest in property in question is Sub-Judiced in the said

suit before Ld. District Judge and attachment order of property in question passed under section 83 Cr.PC, in complaint case, is also subject to decision of the said suit.

107. At present the property in question is vested in State Government and is at the disposal of State. The issue regarding rights of objectors in the property in question is Sub-Judiced in the above said civil suit. The attachment order dated 03.10.2023 was passed by this court on the plea of DH that the property in question is in the name of the JD, whereas as per the sale deed dated 28.03.2023 Ex. OW3/D1, the property was already sold by the JD to the objectors before passing of order by this court on 3.10.2023 for attachment of the property in question. The rigours of section 64 CPC is not applicable in the present case.

108. This court has no domain to go into the question as to whether attachment of property in question under section 83 Cr.PC by criminal court is valid or not as this question is Sub-Judiced before Ld. District Judge in civil suit filed by the objectors. At present, on the basis of attachment order passed by the criminal court under section 83 Cr.PC, the property in question cannot be sold for execution of the present decree. Moreover, objectors have also held bonafide purchaser of the property in question as per finding given in issue no. 2. So, section 53 Transfer of Property Act 1882 is also not applicable in the present case as in the said section, it is mentioned that nothing in this sub section shall impair the rights of a transferee in good faith and for consideration.

109. In view of the foregoing facts and discussion, issue no. 3 is decided in favour of the objectors and against the DH.

Relief

110. In view of the foregoing discussion and findings on issue no. 2 & 3, objections of the objectors stands allowed and the property in question is released from attachment. The objection petition stands disposed off accordingly. File be consigned to record room after due compliance.

**Announced in the open court
on 9th June, 2026**

(SHIV KUMAR)
District Judge-02,
Court no.127,
West Distt, THC:Delhi