

Exe/82/2017

Hira Singh Vs Gian Singh.

Present: Sh. Gurjit Singh & Sh. Jaideep Singh Advocates counsel for the Decree Holder Hira Singh.

Sh. J.S.Gill, Advocate counsel for Judgment Debtor/objector Gian Singh.

Heard on objections moved on behalf of Judgment debtor. In the present objection it is pleaded that Judgment Debtor has filed an application U/o 9 Rule 13 and Section 151 of CPC for setting aside Exparte order dated 12.05.2017. It is further submitted that plaintiff/deGREE holder inconnivance with process serving agency has got wrong report about the service of defendant/applicant/Judgment Debtor.

2. It is further submitted that judgment and decree is liable to be set aside on the ground that no process server has been approach to the Judgment Debtor to deliver the summons. No muandi has been effected in the village nor any publication has been made in the newspaper. It is further submitted that execution and validity of existence of alleged pronote and receipt dated 12.06.2015 is specifically denied and is the result of fraud and consideration and mere paper transaction and last it is prayed that execution may kindly be stayed and dismissed till the application U/o 9 Rule 13 of CPC.

3. In reply, it is submitted that application U/o 9 Rule 13 of CPC is not filed within time. It is further submitted that objections are malafide one and filed just to delay the execution proceedings. Denying all the averments in general, Ld. Counsel for the Decree Holder has prayed for dismissal of objections.

4. After hearing the submission of raised by learned counsel for the parties and going through the material available on record this court is of the view that pendency of application U/o 9 Rule 13 of CPC is no ground to stay the execution proceedings. Moreover, the facts pleaded by the the objector/ Judgment Debtor in the present objections can only be decided in application U/o 9 Rule 13 of CPC, which is admittedly pending and has not been decided yet. At this stage, the execution proceedings cannot be stayed merely on the basis of pendency of application U/o 9 Rule 13 of CPC. As such, present objections are being devoid of any merits and the same stands dismissed and disposed off accordingly.

5. Perusal of the file shows that property of Judgment Debtor in this case has already been attached and notice of application U/o 21 Rule 66 of CPC has also been served. As such, Ahlmad is directed to issue sale warrants as per following scheduled:-

Notice 05.12.2022

Munadi 20.12.2022

Sale 17.01.2023

Report 31.01.2023

On filing of necessary munadi fee.

Date of Order:22.11.2022

Arun Steno Gr.1

(Amandeep)
ACJSD, Patti,
(UID No.PB-0336)