

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

119

CR-1189-2022

Reserved on 04.08.2022

Date of Decision : 10.08.2022

Megha Rana

.....Petitioner

Versus

Kanwar Samir

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.S. Jaswal, Advocate for the petitioner.

ALKA SARIN, J.

The present civil revision petition has been preferred by the decree-holder/wife against the order dated 11.10.2021 passed by the Family Court, Panchkula dismissing her execution petition as unsatisfied with liberty to file a fresh execution petition on the same cause of action as and when any particulars of the judgement-debtor/husband regarding his address in India or any property in India comes in the notice of the decree-holder/wife.

The parties to the *lis* were married on 16.01.2011. However, the marriage did not work out for them and vide judgement dated 20.05.2014 (Annexure P-1) the Additional District Judge, Panchkula allowed the divorce petition filed by the decree-holder/wife under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955. The Court dissolved the marriage of the parties and also directed the judgement-debtor/husband to pay permanent alimony and maintenance of Rs.60 lakhs to the decree-holder/wife.

The decree-holder/wife filed an execution petition (Annexure P-3) for recovery of the amount of permanent alimony and maintenance. The execution petition was sent to the Civil Court at Balachaur, District SBS

Nagar for attachment of the properties of the judgement-debtor/husband. Third party objections were filed by one Inderjit Singh contending that the properties sought to be attached were owned by him and not by the judgement-debtor/husband. The said third party objections were dismissed by the Civil Court at Balachaur vide order dated 06.09.2021 (Annexure P-6). On the same date, vide a separate order (Annexure P-7), the Civil Court at Balachaur held that the judgement-debtor/husband was not owner in possession of any property mentioned in the list of property supplied by the decree-holder/wife and therefore the file be sent back to the Court of the District Judge, Panchkula. After receipt of the file by the Family Court, Panchkula the impugned order dated 11.10.2021 was passed dismissing the execution petition as unsatisfied with liberty to file a fresh execution petition on the same cause of action as and when any particulars of the judgement-debtor/husband regarding his address in India or any property in India comes in the notice of the decree-holder/wife. Hence, the present civil revision petition.

Learned counsel for the decree-holder/wife has contended that both the Civil Court at Balachaur and the Family Court, Panchkula have erred in passing the impugned orders dated 06.09.2021 and 11.10.2021. According to counsel the decree-holder/wife has not received a penny as alimony and permanent maintenance despite there being a judgement and decree in her favour.

Heard.

While passing the impugned order dated 11.10.2021 the Family Court, Panchkula inter-alia held that *“As per record on the case file the judgement-debtor is living in United Kingdom and therefore, it has been*

concluded by the court at Balachaur that he has no property in his name at Balachaur as per the list of properties furnished by the decree-holder. Moreover, he has no property at Panchkula and he does not reside at Panchkula. Therefore, at this stage it is not possible to execute the judgement and decree in question and the present execution petition is dismissed as unsatisfied. However, as and when any particulars of the judgement-debtor regarding his address in India or any property in India comes in the notice of the decree-holder, she shall be at liberty to file fresh execution petition on the same cause of action". Learned counsel for the decree-holder/wife has been unable to point out how the said order suffers from any illegality. Once the judgement-debtor/husband is not the owner of the properties whose list was furnished to the Executing Court, the same cannot be attached. Even before this Court the counsel for the decree-holder/wife has not been able to show anything to link the ownership of the properties with the judgement-debtor/husband. In any event the Family Court, Panchkula has given liberty to the decree-holder/wife to file a fresh execution petition as and when any particulars of the judgement-debtor/husband regarding his address in India or any property in India comes to the notice of the decree-holder/wife.

It is often said that the travails of a decree-holder commence after he has obtained a decree in his favour. In the present case the decree-holder/wife is still to recover the permanent alimony and maintenance awarded to her in 2014. The Court can sympathize with the decree-holder/wife for the delay but it finds no illegality or error in the exercise of jurisdiction by the Civil Court at Balachaur or the Family Court, Panchkula. The interest of the decree-holder/wife has been safe-guarded and the decree-

holder/wife can approach the Court with a fresh execution petition once the relevant details are available with her.

The civil revision petition is, accordingly, dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

10.08.2022
jk

(ALKA SARIN)
JUDGE