

A

FAUJA SINGH

v.

JASPAL KAUR

APRIL 22, 1996

B

[DR. A.S. ANAND AND S.B. MAJMUDAR, JJ.]

*Code of Civil Procedure, 1908 :*

C

*Section 60(ccc)—Plea of non-attachability of residential houses—Executing Court as well as High Court not dealing with the question—Held, High Court ought to have assigned reasons for dismissing the civil revision petition—Obligation to give reasons introduces clarity and minimises chances of arbitrariness and the higher forum can test the correctness of those reasons—Matter remanded to High Court for disposal in accordance with law after hearing parties—No opinion expressed on the merits of the case.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7559 of 1996.

E

From the Judgment and Order dated 29.7.91 of the Punjab & Haryana High Court in C.R. No. 2064 of 1991.

Mahabir Singh for the Appellants.

R.K. Kapoor, S.K. Srivastava, P. Verma and Anis Ahmed Khan for the Respondents.

F

The following Order of the Court was delivered :

Leave granted.

G

We have heard learned counsel for the parties and examined the record.

H

The appellant had raised a specific plea in the executing court regarding the non-attachability of his residential house in view of the provisions of Section 60(ccc) C.P.C. The executing court has not dealt with the issue and the High Court, also did not deal with that question and dismissed the civil revision petition by one word "dismissed". In our

opinion, since the parties were present before the High Court in the civil revision, on the plainest consideration of justice, it should have assigned reasons for dismissing the civil revision petition against the order of the executing court. The absence of reasons has deprived this court to know the circumstances which weighed with the High Court to dismiss the revision petition in limine. We say it with respect, that it was an unsatisfactory method of disposal of the revision petition. The necessity to provide reasons, howsoever, brief in support of its conclusion is too obvious to be reiterated. Obligation to give reasons introduces clarity and excludes, or at any rate minimises the chances of arbitrariness and the higher forum can test the correctness of those reasons. The order of the High Court dismissing the civil revision petition, in-limine, thus, cannot be sustained. We, accordingly, accept this appeal and set aside the order of the High Court and remand the civil revision petition No. 2064/91 to the High Court for its disposal in accordance with law, after hearing the parties. We, however, clarify that we are expressing no opinion on the merits of the civil revision petition.

The appeal is accordingly allowed in the above terms. No costs.

G.N.

Appeal allowed.