

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

CR 2627 of 2015

Date of Decision: May 7, 2015

Reddy Wax Factory

.....Petitioner

Vs.

Lakhvir Singh and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.S.S. Walia, Advocate  
for the petitioner.

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**M.M.S. BEDI, J.(ORAL)**

An ex-parte award was passed against the petitioner company on October 24, 1997 as owner of the vehicle driven by Rakesh Kumar, by Motor Accident Claims Tribunal, Patiala. An application for execution was filed by the decree holders within limitation, but it was withdrawn on April 28, 2010. Thereafter another application was filed by the respondents which was dismissed in default on January 14, 2012. An application for restoration of said execution application was dismissed on February 20, 2013 on the ground that it has been filed beyond the period of limitation. The respondents filed another application on August 29, 2013 for execution of

the award which was resisted by the petitioner by filing objections to the effect that the execution was barred by limitation. The Motor Accident Claims Tribunal has dismissed the objection petition of the petitioner observing that dismissal of earlier application in default and dismissal of application for restoration cannot come in the way of the decree holder to seek execution.

Learned counsel for the petitioner has vehemently contended that the ex-parte award is sought to be executed beyond period of limitation provided under Article 136 of the Limitation Act. During the course of arguments, learned counsel for the petitioner informs that an application for setting aside the ex-parte award dated October 24, 1997 has been dismissed by the Court below and that no appeal had been filed.

After hearing counsel for the petitioner and going through the facts and circumstances of this case, this court is of the considered opinion that the ex-parte award had been passed on October 24, 1997. The ex-parte award has been upheld with the dismissal of the application under Order 9 rule 13 CPC. Since no appeal had been filed, the award has attained finality. It is an admitted fact that first application for execution was filed within a period of limitation as prescribed under Article 136 of the Limitation Act. The same was dismissed as withdrawn on April 28, 2010 and later on another application had again been dismissed in default. The above said circumstances indicate that the respondents after getting the award had been contesting the proceedings initiated by the petitioner for setting aside the ex-

parte award, besides contesting the objections of the execution petition. The petitioner had been resisting the execution of the award in one way or another and has been successful in delaying the execution. It is settled principle of law that dismissal of application for execution in default will not debar the filing of second execution application especially when the first application for execution had not been decided on merits upholding any objections.

Taking into consideration the above said circumstances, I do not find any illegality in the order dated February 3, 2014 in issuing certificate under Section 174 of the Motor Vehicles Act, 1988, for recovery of the award of Rs.63000/- with interest.

Dismissed.

May 7, 2015  
sanjay

(M.M.S.BEDI)  
JUDGE