

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4144-2014
Date of Decision: 04.05.2015

Paul Cloth House and anotherPetitioners

Vs.

State Bank of India and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. P.S.Guliani, Advocate
for the petitioners.

Mr. A.K.Ahuja, Advocate
for respondent No.1.

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SABINA, J.

Petitioners have filed this petition challenging the order dated 09.05.2014 whereby the application moved by the petitioners for permission to deposit the remaining amount of Rs.4021.22 P. towards satisfaction of decree, was dismissed.

I have heard learned counsel for the parties and gone through the record on the file carefully.

Respondent No.1 filed suit for recovery and the same was decreed vide judgment and decree dated 08.08.2005. Since the decree was not complied with, respondent No.1 moved an application for execution of the decree.

On 19.01.2013, the following order was passed by the Lok Adalat in execution proceedings :-

“File taken up today as 18.1.2013 was declared holiday. File taken up before the Lok Adalat. Compromise Effected. Jaspal Singh has suffered a statement that out of decretal amount he will come on next date of hearing with Rs.50000/- or deposit in the bank. He will pay first installment in the month of March 2013 and remaining will give every calendar month. In view of the said statement case is adjourned to 15.3.2013 for making payment of installment of Rs. 50000/-.”

In pursuance to the said order, the decree holder deposited the first instalment to the tune of Rs.50,000/- on 15.03.2013.

The order passed on 15.03.2013 by the Executing Court reads as under :-

“An application for depositing bank receipt of Rs. 50000/- has been filed. Photocopy of receipt placed on record. Now to come upon 25.4.2013 for payment of second installment.”

Thereafter, judgment debtor deposited the second instalment on 25.04.2013.

Order passed on 25.04.2013 reads as under :-

“Jaspal Singh has suffered a statement that he has deposited the second installment of Rs. 50000/- today in the DH-bank. He is placing the photocopy of the receipt on the record. Now, to come up on 28.5.2013 for

remaining payment.”

Thereafter, judgment debtor deposited the third instalment on 28.05.2013.

Order passed on 28.05.2013 reads as under :-

“As per Duty Roster dated 27.5.2013 received under endst. No 5439 dated 27.5.2013 file put up before me being duty magistrate. Jaspal Singh has deposited the third installment of Rs 50000/-today in the DH-bank. He is placing the photocopy of the receipt on record. Now to come up on 9.7.2013 for remaining payment.”

Execution application had been filed qua recovery of amount of Rs.1,54,021.22 P. In pursuance to the order dated 19.01.2013, respondent No.1 had deposited the amount of Rs.1,50,000/- in three instalments. Thereafter, judgment debtor moved an application for depositing of remaining amount of Rs.4,021.22 P. towards satisfaction of the decree. The said application was opposed by the bank alleging that the bank could not be forced to accept the compromise. The learned Executing Court erred in dismissing the application filed by judgment debtor as the compromise was effected between the parties before the Lok Adalat. Instalments were paid by the judgment debtor in terms of the compromise effected between the parties. Since the instalments were duly accepted by the bank, the bank later could not take up the stand that it could not be forced to accept the compromise. Compromise between the parties was effected before the Lok Adalat

and order in this regard was passed on 19.01.2013. There is no reason to doubt the genuineness of the said order. All the above reproduced orders were passed in the presence of the counsel for the bank,

Accordingly, this petition is allowed and the impugned order dated 09.05.2014 (Annexure P-1) whereby the application of judgment debtor for depositing the outstanding decree amount was dismissed, is set aside. Consequently, order 09.05.2014 (Annexure P-2) whereby an application filed by the judgment debtor for referring the execution proceedings to the Lok Adalat for passing the final award was dismissed is also set aside. Application moved by the judgment debtor to deposit the remaining amount of Rs.4021.22 P. towards satisfaction of decree is allowed.

**(SABINA)
JUDGE**

May 04, 2015
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