

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4482 of 2012 (O&M)
Date of Decision: September 18, 2015

V.N.Gaur

...Petitioner

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Parminder Singh, Advocate,
for the petitioner.

Mr.Ravi Partap Singh, AAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

Mr.Parminder Singh Advocate has filed his Vakalatnama on behalf of the petitioner after obtaining no objection from Mr.K.L.Dhingra Advocate on the brief. The same is taken on record.

The challenge in the present revision petition is to the order dated 31.3.2012, whereby the execution application filed by the petitioner-decree holder has been consigned to the record room on the ground that nothing was due as entire payment had been made to the decree-holder.

Mr.Parminder Singh, learned counsel appearing on behalf of the petitioner submits that on previous occasion, the trial Court vide order

dated 12.2.2011 had appointed Retired Accountant to determine the amount due to the petitioner as per the judgment and decree as the termination order of the petitioner was set-aside and he was held entitled to arrears/consequential benefits. The trial Court, while consigning the execution to the record room, has not taken into consideration the report dated 26.2.2011 (Annexure P-4) submitted by the said Accounts Officer and prays that the matter be remitted back to the executing court to pass fresh order after taking into consideration the aforementioned report.

Mr.Ravi Partap Singh, learned Assistant Advocate General, Haryana appearing on behalf of the State submits that there was no fault with the order of the trial Court as the trial Court, after noticing the calculations, consigned the execution application to the record room and nothing is due to the decree-holder. He further submits that there is no illegality and perversity in the impugned order.

I have heard the learned counsel for the parties and appraised the paper book.

The order dated 12.2.2011, whereby the executing court appointed the retired Accountant reads thus:-

“The JD has made payment of Rs.1,09,996/- through cheque to the DH. The same has been received by him. His statement to this effect has been recorded. Ld.counsel for the DH has submitted that the entire amount of the decree has not been paid by the JD despite several reminders and notices issued to them. On the other hand, Shri K.K.Nain, Executive Engineer alongwith Govt.Pleader has submitted that the Head of salary has been attached, which is causing great loss to the employee and they are ready to get the matter settled regarding balance

payment, if any, of the decretal amount. In view of the above facts and circumstances and the fact that part payment of decretal amounts has been paid by the JD, the DDO Code No.0665 of Executive Provincial Division No.1 PWD (B&R), Karnal and Treasury Code No.KNL00 to Rs.14,00,000/- is ordered to be released henceforth. Letter in this regard be sent to Treasury Officer, Karnal. Both the parties have agreed that some independent person preferably CA/Account Officer can be appointed by the court, which is to be appointed by the court with the consent of both the parties with regard to calculation or arrears of that amount. Both the parties have suggested seven persons and accordingly they both agreed that Shri Harish Kumar Khetarpal, Account Officer, o/o Civil Surgeon, Karnal, should be appointed to adjudicate the accounts statement of the DH as well as JD shall be present before the Account Officer Shri Harish Kumar Khetarpal, O/o Civil Surgeon, Karnal, who shall calculate the amount and clear differences if any, with regard to calculation method conducted by both the parties. The parties have been directed to put their appearance before Shri Harish Kumar Khetarpal, O/o Civil Surgeon, Karnal, on 19.2.2011 at 10.00 AM. Rs.2,000/- expenses of Expert/Account Officer shall be paid by DH and he shall get one receipt from him. The same shall be placed on the file. The calculation method adopted by Account Officer and account settled with the consent of parties shall be intimated in detail by the Account Officer Shri Harish Kumar Khetarpal on or before 26.2.2011. However, the file shall be examined in presence of Ahlmad of this Court. Copy of order be given dasti to the DH for intimating the Account Officer.”

In pursuance to the aforementioned order, the Accountant had submitted his report dated 26.2.2011 (Annexure P-4). On perusal of the impugned order, it reveals that neither the aforementioned report nor the

previous order had been noticed and the calculations produced by the respondent-State have been accepted.

In my view, the impugned order is not sustainable and is hereby set-aside. The matter is remitted back to the executing court to decide the execution application afresh by taking into consideration the report dated 26.2.2011 (Annexure P-4) of the Accountant as expeditiously as possible.

The revision petition stands disposed of.

September 18, 2015
ramesh

(AMIT RAWAL)
JUDGE