

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.5336 of 2013
Date of decision:09.01.2015

Satpal Singh & others

.....Petitioners

Versus

M/s Sohan Lal Aggarwal & Sons & another

.....Respondents

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Atul Gaur, Advocate, for the petitioner.

Mr.Sharad Aggarwal, Advocate, for respondent No.1.

G.S.Sandhawalia J. (Oral)

Present case is a sad state of the decree holder, running from pillar to post and from one state to the other and not able to get the fruits of the decree dated 01.08.2000.

The present revision petition has been filed by the petitioners who are the office bearers of respondent No.2-private company which is alleged to have closed down, challenging the order passed by the Executing Court, Karnal whereby they have been directed to appear in person as to show cause as to why they should not be committed to civil imprisonment for the non-satisfaction of the decree in question. The decree passed at Karnal pertains to a suit for recovery of ₹4,53,095/-, which was passed in favour of respondent No.1 on account of commercial transaction of foodgrains *inter se* the parties. As per the decree, the plaintiffs were also entitled to interest @ 12% per annum from the date of institution of the suit, i.e., 21.04.1997 till realization of the decretal amount. The said respondents filed execution

case No.12 of 2001 which was transferred to the Civil Judge (Sr.Divn.), Amritsar on 19.10.2002 (Annexure P2) on account of the fact that the property of the judgment debtors was situated within the revenue jurisdiction of Amritsar, Punjab. Thereafter, the petitioners filed objections on 27.07.2012 before the Civil Judge (Sr.Divn.), Amritsar, which were allowed on the ground that the land in question was owned by Mohinder Kaur and Satpal Singh and the property attached did not belong to the private company. The execution was, thereafter, ordered to be returned to the transferee Court of District Judge, Karnal on 25.08.2012.

Initially, warrants of arrest were issued by the executing Court at Karnal on 04.09.2012. However, the Court recalled them on an application filed on 31.10.2012 on the ground that the mandatory compliance of Order 21 Rule 37 CPC had not been made. However, the Executing Court directed that the petitioners being the Managing Directors, were legally bound to satisfy the decree as they were managing the affairs of the firm, namely, M/s Amritsar Rice Mill (Pvt.) Ltd. and therefore, they were directed to appear on 22.08.2012 to show cause as to why they should not be committed to civil imprisonment vide the order dated 07.08.2013. It is not in dispute that the petitioners have, thereafter, put in appearance on 22.08.2013 and the case was adjourned to 05.09.2013 for filing of the reply by the petitioners. Thereafter, this Court was approached challenging the order dated 07.08.2013 wherein they had been asked to put in appearance.

A perusal of the above facts would go on to show that the present petition is premature. The petitioners had only been asked to put in appearance to show cause as to why they should not be committed to civil imprisonment and they had taken time to reply to the show cause notice.

Accordingly, it is directed that the Executing Court will take into consideration the reply, if any, filed by them and thereafter, proceed in accordance with law. It has been noticed that the decree was passed wayback on 01.08.2000 and has been transferred to Amritsar and back to Karnal. In such circumstances, the Executing Court shall ensure that the execution proceedings be decided within a time-frame of three months from the receipt of a certified copy of this order.

With the abovesaid observations, the present revision petition is disposed of.

09.01.2015
sailesh

(G.S.Sandhawalia)
JUDGE