THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 7179 of 2012 (O&M)
Date of decision: July 21, 2015

The State of Haryana and another
...Petitioners

Versus

Bharat Singh and another
...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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. Gaurav Goel, Assistant Advocate General, Haryana.

Mr. Sudhanshu Makkar, Advocate, for the respondents.

K. KANNAN, J. (Oral)

1. There is simply no merit in the revision filed by the State that challenges what is so fundamental as laid down by the decision of the Supreme Court in Gurpreet Singh Versus Union of India (2006) 8 SCC 457 that any payment in satisfaction of a decree by the judgment debtor when there is principal and interest outstanding ought to have been deducted only against the outstanding interest and cost first and if there is surplus amount, it will go in deduction towards principal. The memo of calculation given would show that the amounts paid by the State in part satisfaction of the decree before the award was enhanced by the Supreme Court have been made in such a way that the payments have been appropriated towards the principal and interest has been loaded for the balance of amount. This is clearly wrong and there can be no estoppel about the judgment debtor who

has received the amount deposited in the court, which in the estimation of the State was to operate as a full satisfaction of the decree. Unless a full satisfaction memo has been filed in court and recorded as such by the executing court, there can be no abatement of liability of the judgment debtor. There was no attempt made by the State to show that there was a full satisfaction recorded by the court and the executing court had discharged the execution. On the other hand, I would find the amount initially deposited by the State was soon after the enhancement of the compensation awarded by the first court of reference and if there had been a further enhancement by the decision of the Supreme Court and the decree-holder was attempting to recover the money by giving credit to the payments already received in such a way as operate to apply against the interest and costs first, the decree holder was competent to do so. Gurpreet Singh's case (supra) was not bringing out any new dispensation. It merely reiterated what was already existing law about the manner of appropriation that have to be applied.

2. There is no error in the decree-holder to apply for the amounts in the manner which the law permits and there is no merit in the contention of the State that the payments already must have been taken to discharge their liability and that there was no additional amount payable. The calculations proved otherwise and I find no error in the order of the court in accommodating the claim of the decree-holder by applying the right principle of appropriation.

3. The revision petition is dismissed.

July 21, 2015 **(K.KANNAN)**
prem **JUDGE**