

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**EFA No.3 of 2014 (O&M)
Decided on: March 11, 2015.**

Punjab Infrastructure Development Board

.... Petitioner

Versus

M/s V.K. Sood Engineers and Const. And another

.... Respondent

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

Present: Ms. Sonal Datta, Advocate, for
Mr. Vikas Mohan Gupta, Advocate,
for the appellant.

Mr. Anmol Pandit, Advocate,
for respondent No.1.

Mr. Neeraj Sharma, AAG, Punjab.

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

The petitioner-appellant had re-constructed the road from Khanna to Rahon via Machhiwara Samrala and constructed a bridge over Satluj river. Pursuant to a dispute having arisen with Punjab Public Works Department in arbitration proceedings, an Award was passed in favour of the respondent No.1-construction company. Respondent No.1 filed an execution application for execution of the arbitration award dated 30.11.2006 before the District Judge, Ludhiana, impleading Punjab Public Works Department, Central Works Division No.3, Ludhiana, through project engineer cum executive engineer.

During course of the execution proceedings an application was filed for attachment of the account in Allahabad Bank in the name of Punjab Infrastructure Development Board, Chandigarh. The above said bank account in Sector 34 Branch of Punjab Infrastructure Development Board i.e. the petitioner was attached to execute the arbitral award dated 30.11.2006. The objections were filed by the petitioner claiming that the Board had been appointed by the State Government by notification under Punjab Infrastructure Development Board Act and that the attachment order regarding the accounts of the petitioner be set aside. The objections filed by the petitioners were dismissed as such the present appeal under Order 21 Rule 54 (A) CPC has been filed questioning the propriety of the order attaching the account of the petitioner Development Board as well as the property of the State Punjab Public Works Department Ludhiana. The property of the State of Punjab Public Works Department was also ordered to be attached up to a sum of Rs. 2 crores giving permission to the appellant Board to withdraw or utilize the remaining amount after leaving a sum of Rs.2 crores in the attached account.

During pendency of the present petition the State of Punjab has released the decretal amount as per the Arbitration Award. In view of said circumstances, counsel for the decree-holder-respondents submits that this petition has been rendered infructuous. However learned counsel for the appellant has submitted that the petitioner board may be a financing authority for the projects undertaken as per the arrangement of the Punjab Infrastructure Development Board Act but the property of the Board cannot be attached to execute an award passed against the authorities under State of Punjab as has been done in the present case. Counsel for the appellant

submits that the cases in which the petitioner Board is not a party to the litigation, it cannot be compelled to execute the money decree by impleading the petitioner as a party in execution proceedings for the first time.

It is settled principle of law that the executing Court cannot go beyond the decree which is sought to be executed. It is certainly a debatable issue whether the liability of a State has to be discharged by the petitioner in case where the petitioner board is not a party to the arbitration proceedings or the judgments in which decrees are passed against the State. It has also been brought to the notice of the Court that following the precedent in this case the decree holders have started filing application for attachment of property of the Board as a device to compel the State or the Board authorities to satisfy the decrees.

I have considered the contentions of learned counsel for the petitioner and I am of the opinion that in this case the State has already discharged the liability under the Arbitration Award.

I have considered the entire controversy and it is specifically expressed here that the satisfaction of the decree pursuant to the attachment of the accounts of the petitioner in the present case will not be considered as a precedent, ipso facto, for the liability of the Board in case of recovery pursuant to money decree or award of arbitrators. This point is left open to be determined in an appropriate controversial case requiring determination of inter se relationship of the Punjab Infrastructure Development Board and the State authorities.

This petition is disposed of without determination of the point whether the attachment of the property of the petitioners and legal action by the executing Court has been appropriate since the liability has passed to the

State Authority i.e. PWD Department.

Nothing said in this order will prejudice the rights of the parties
in any other litigation pending between them.

(M.M.S. BEDI)
JUDGE

March 11, 2015
harsha