

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1201 of 2016
Date of decision : February 17, 2016

Sunil Dutt Bansal

..... Petitioner

Versus

Jai Bhagwan Bansal and another

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S. S. Bains, Advocate
for the petitioner.

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?

Amit Rawal, J (oral).

The petitioner-judgment debtor is aggrieved of the dismissal of objections on the ground that the compromise arrived at before the lower appellate court cannot be executed in the absence of any decree.

Learned counsel for the petitioner submits that the suit was dismissed, however, before the lower appellate court the matter was compromised on 5.3.2015 and it was held that the parties shall be bound by the compromise. The respondent-decree holder sought execution of the said compromise by filing execution petition. Objections, in this regard were filed viz-a-viz maintainability but the same have erroneously been dismissed.

The court below has failed to appreciate, at the

best, jurisdiction to try and deal with the execution application is of the appellate court.

I have heard learned counsel for the petitioner and appraised the paper book and am of the view that there is no merit, for, in case the petitioner is aggrieved of the compromise, nothing prevented him to move application as provided under Order 23 CPC for recalling the order. It would be apt to reproduce the order dated 5.3.2015:-

“File taken up today on a joint application filed by learned counsel for the parties on the ground that the parties have compromised.

The parties to the suit have compromised and in this regard joint statement of appellant Sunil Dutt Bansal and that of respondents no.1 (a) and (b) have been recorded, whereby they have stated that as per the compromise Sunil Dutt Bansal will pay a sum of Rs. 1.65 Crores to the respondents no.1 (a) and (b) as full and final settlement of their claim against the appellant. It has further stated that appellant Sunil Dutt Bansal will pay this amount by way of five installments. The first installment of Rs. 25.00 lacs will be paid on or before 10.3.2015 and the remaining four installments of Rs. 35.00 lacs each shall be paid on 10.5.2015, 10.7.2015, 10.9.2015 and 10.11.2015. In any case, the entire payment of Rs. 1.65 Crores will be made on or before 31.12.2015. In case of any default in making the payment by Appellant Sunil Dutt Bansal, respondents no.1 (a) and (b) shall be entitled to recover interest at the rate of 18% per annum for the delayed period on the outstanding amount. In case appellant Sunil Dutt Bansal commits default in payment of two consecutive installments, he would also be liable for criminal/contempt proceedings. It has further

been stated by the parties that they will be entitled to their respective shares in the properties as per the existing record and further that the appellant and respondents No.1 (a) and (b) will be entitled to share the benefits in terms of money etc. in the eventuality of their succeeding in the writ petition titled as M/s Morion Chemicals Limited vs Essix Bio Sciences, which is presently pending with the Hon'ble High Court. It has also been agreed that appellant Sunil Dutt Bansal will not press the complaint filed by him before the Economic Offence Wing, Chandigarh and complainant Jai Bhagwan will also not pursue the case registered vide FIR no. 154 of 2007, Police Station Industrial Area, Chandigarh, presently pending in the court of Shri Pardeep Synghal, JMIC, Chandigarh. In view of the compromise, this appeal is dismissed as withdrawn. Parties shall, however, remain bound by their join statement made by them in the court today. File be consigned to record room. “

Once it has been found that the parties are bound by the compromise, in my view, the aforementioned compromise was as per definition provided in Section 2 (2) CPC, which reads thus:-

“2(2) decree” means’ the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and (may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include.

(a) any adjudication from which an appeal lies from an order, or (b) any order of dismissal for default.”

In view of the aforementioned statutory provisions of

law, I am of the view that the order declining objections cannot be said to have been passed without jurisdiction much less, any illegality and perversity in the impugned order.

The revision petition is devoid of merits.

Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

February 17, 2016
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