

106

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3423-2015

Date of decision : 07.11.2016

Chhabil Dass Saini

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.K. Nehra, Advocate
for the petitioner.

Mr. D.K. Mittal, DAG, Haryana.

AMIT RAWAL, J. (ORAL)

The petitioner-decree holder is aggrieved of the impugned order dated 13.02.2015, whereby the execution application seeking execution of the judgment and decree dated 01.04.2006 has been dismissed as satisfied.

Mr. S.K. Nehra, learned counsel appearing on behalf of the petitioner-decree holder submits that though, the civil suit bearing No.228 of 2008 has been dismissed by the trial Court, but the lower Appellate Court vide order dated 01.04.2006 has granted the following benefits:-

“It is ordered that the appeal is allowed and the judgment of learned trial Court to the extent of issue No.1 is set aside and the suit of the plaintiff is decreed with costs. Even this pension and gratuity and other retiral benefits shall be computed as he has been placed on the pay scale of ₹ 3700-5700 on 19.07.1988. The respondents shall make the necessary payment

within three months from the date of receipt of this order. In case, the payment is not made within three months, the appellant shall entitled to interest @ 9% per annum.”

Both the parties are aggrieved of the non-granting of the certain benefits, assailed the judgment and decree of the lower Appellate Court, much less, of the trial Court but both met with the same fate. The trial Court during the course of the hearing vide order dated 01.10.2011 noticed that the petitioner-decree holder is also entitled to interest @ 9%. The operative part of the order reads thus:-

“Keeping in view dictum laid down by Hon'ble Punjab and Haryana High Court in the above said judgment coupled with the facts of the present case, it is hereby cleared that decree holder is entitled for interest @ 9% per annum from the date of accrual till the date of payment.

On the request of both the parties, decree holder is directed to visit the office of JDs for collection of payment as due as per law. Now file be put up before the court on 21.12.2011 for report.”

Even the aforementioned order was assailed, but the same did not yield any result, in essence, the revision petition was dismissed. However, the trial Court has not taken care of the aforementioned aspect and embarked upon a path of conjectures and surmises in holding the execution to be satisfied, but the interest part has not been taken care of.

Per contra, Mr. D.K. Mittal, DAG, Haryana, submits that the Court below had noticed all these facts and found that the judgment and decree has been satisfied and no cause of action survives, thus, urges this Court for dismissal of the present revision petition.

I have heard the learned counsel for the parties and appraised

the paper book.

On reading of the order dated 01.04.2006, the trial Court/Executing Court has not taken into consideration the interest @ 9%, in fact, it has been remained oblivious qua the aforementioned fact which is part and parcel of the judgment and decree indicated above.

In view of the above, I am of the view that the matter requires reconsideration and accordingly, the impugned order dated 13.02.2015 is set aside and the execution petition is ordered to be revived. The trial Court/Executing Court is directed to pass an appropriate order in the execution application keeping in view the observations made hereinabove.

Learned counsel for the parties and as well as the parties are directed to appear before the trial Court/Executing Court on 01.12.2016.

Revision petition stands disposed of.

07.11.2016

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**