

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.470 of 2016 (O&M)

Date of Decision.25.01.2016

M/s Walia Industrial Corporation

.....Petitioner

Vs.

Vinod Rav

.....Respondent

Present: Mr. Mandeep K. Dot, Advocate
for the petitioner.

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?

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K. KANNAN J. (ORAL)

1. The ex parte award obtained by a workman is put in execution before the Civil Court. The defence of the employer is that he has moved an application to set aside the award and it is pending. It is the further objection that no amount is due by the employer to the employee and all the dues to the workman have been already settled. Such objections which are taken before the Executing Court cannot be entertained because till an ex parte award is set aside, the decree is always executable. Even a plea that no amount is due and payable and that the amount has been paid by the employer to the employee cannot be entertained by the Executing Court, for it would amount to going behind the award that is already passed. Further any payment which is uncertified, if it has taken place subsequent to the award cannot also be entertained, for in the language of Order 21 Rule 1 CPC, the remedy for such person who was reported to be made liable but he contends that

there is no liability, will only be to file an independent action for recovery of the amount and cannot be put in defence at the stage of execution.

2. The counsel for the petitioner states that the Executing Court is bound to set aside the award. I have already observed that only the objection regarding certified amount can be taken in the manner delineated and all other contentions cannot be considered. The counsel also says that a direction may be given to the Labour Court for disposal. Such direction cannot be given, for no order of the Labour Court is before this Court for giving such an order.

3. There is no merit at all in the revision petition. After all this, the petitioner submits that the petition may be dismissed as withdrawn. The revision petition is dismissed as withdrawn but no observation made above will be withdrawn.

(K. KANNAN)
JUDGE

January 25, 2016
Pankaj*