

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

CR No.4993 of 2012
Date of decision : 20.10.2016

Food Corporation of India

...Petitioner

Versus

M/s Krishna Rice Mills and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Ravi Kant Sharma, Advocate for the petitioner.

Mr. M.S. Saini, Advocate for respondents.

AMIT RAWAL, J. (Oral)

The petitioner-Decree Holder is aggrieved of the impugned order dated 04.05.2012, whereby Executing Court had dismissed the execution petition.

Mr. Ravi Kant Sharma, learned counsel appearing on behalf of petitioner-Decree Holder submits that trial Court at Sangrur had passed decree dated 10.01.1992, whereby suit was decreed for a sum of Rs.2,83,710/- along with cost with future interest at the rate of 12% p.a. and the said judgment and decree was corrected by this Court vide order dated 02.08.1999 passed in CR No.2130 of 1999. Execution petition was filed in the year 2005 which could not be said to be beyond limitation and thus urges this Court for setting aside of the impugned order.

Mr. M.S. Saini, learned counsel appearing on behalf of respondents submits that execution petition could not have been filed at Patiala, once it was filed at Sangrur. Even if the property is situated at different State, it has to be transferred under Section 39 but not in the manner and mode and thus urges this Court for dismissal of the application.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is merit and force in the submission of Mr. Ravi Kant Sharma, for, factum of the passing of the decree dated 10.01.1992 and its correction made by this Court vide order dated 02.08.1999 in CR No.2130 of 1999 vide Annexure P-4 whereas Execution petition was filed on 2005 therefore, cannot be said to be barred by law of limitation.

Order under challenge is therefore, set aside. However, the petitioner-Decree Holder cannot on its own file the execution petition at Patiala owing to the fact that property is situated at Sangrur. Procedure as enshrined under Section 39 of the Code of Civil Procedure has to be followed. It is only concerned Executing Court which can transfer the same where the party is residing and property is situated.

In view of what has been mentioned above, impugned order is set aside.

Revision petition stands allowed.

20.10.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No