

CR No.5347 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5347 of 2016 (O&M)

Date of decision:30.08.2016

Smt. Parampal Kaur

... Petitioner

Vs.

Punjab Financial Corporation, Bank Square, Chandigarh
and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. C.M.Munjal, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Petitioner-judgment debtor is aggrieved of the impugned order dated 16.07.2016 (Annexure P-5), whereby, the Executing Court had fixed the matter for arguments on execution of decree which is indicated in the order dated 05.05.2016 but instead of hearing the arguments, straightway ordered for auction of the property.

Mr. C.M.Munjal, learned counsel appearing on behalf of the petitioner-judgment debtor submits that though the decree is for an amount of ₹38,20,500.30 along with interest @ ₹24.75% per annum w.e.f. 15.11.1998 till realization, but the substantial amount has been paid. In this regard, he has drawn the attention of this Court to the various zimni orders passed by the Court below read this:-

05.03.2016

“JD No.4 moved an application for directing the decree holder to place on record the calculation sheet showing the complete

details. Copy of the same supplied. Case is adjourned to 11.03.2016 for filing its reply.”

29.04.2016

“JD has moved an application to Branch Manager, PFC Ferozepur. Copy of the same has been placed on record thereby making request that JD be allowed to deposit ₹6,38,198.32 as expenses and final settlement amount. Now considering the request of JD that at least JD agrees that an amount of ₹6,38,198.32 is due against JD. So, JD is directed to deposit this amount in the Court and question with regard to remaining amount will be seen thereafter. Now for the said purpose, adjourned to 05.05.2016.”

05.05.2016

“JD has deposited a sum of ₹6,38,200/-. Now both the parties are directed to advance arguments with regard to amount due for execution of decree. Matter be adjourned to 21.5.2016 for hearing arguments.”

21.05.2016

“Today this appeal is not listed for arguments. Now to come upon 31.05.2016 for hearing arguments.”

31.05.2016.

“File taken up today as I shall be on leave on 31.05.2016. So case is adjourned to 16.07.2016 for the purpose already fixed. Parties/counsels be informed.”

He, thus, urges this Court that order under challenge is not sustainable in the eyes of law and prays for setting aside of the same.

I have heard learned counsel for the petitioner-judgment debtor and appraised the paper book and of the view that as per the zimni orders (supra), the matter was slated for addressing the arguments on execution of the decree but the same was adjourned to 21.05.2016. On the said date, the matter could not be listed for arguments and adjourned for 31.05.2016. The Presiding Officer was on leave on 31.05.2016 and on 16.07.2016 straight way ordered for auction of the property without giving opportunity to the party. In fact, the order under challenge putting the property for auction is totally against the provisions of law. Accordingly, the impugned order is set aside and the matter is remitted back to the Executing Court with a direction to grant an opportunity to the petitioner-judgment debtor to address arguments with regard to amount due for execution of the decree. The petitioner shall not prolong the decision of the execution of the decree under the garb of this order. The Executing Court shall hear the arguments and render the decision thereon.

With the aforementioned directions, the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

August 30, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No