

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5407 of 2014

Date of Decision: 08.01.2016

BHW Home Finance Limited

... Petitioner(s)

Versus

Dharam Pal and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. S.P.Chahar, Advocate
for the petitioner.

Shekher Dhawan, J.

Present revision petition is challenge to the order dated 25.3.2014 whereby learned trial Judge dismissed the execution petition holding that the execution proceedings and the criminal proceedings under the Negotiable Instruments Act, 1881 cannot go simultaneously.

Learned counsel for the petitioner submitted that the petitioner is entitled to receive the decretal amount. Even if the entire amount which was received by way of issuance of cheque is taken into consideration, that was way back on 25.3.2014 and petitioner is entitled to receive interest till the date of realization which shall not be covered as per amount of cheque. That is why execution proceedings as well as

proceedings under the Negotiable Instruments Act are to proceed simultaneously and the impugned order dated 25.3.2014 be set aside.

Having considered the submissions made by learned counsel for the petitioner, this Court is of the view that petitioner opted to receive the cheque during execution proceedings and the only purpose was to finalize the execution proceedings. Now the petitioner cannot take the plea that after issuance of cheque, he is also entitled to continuation of the execution proceedings as the same is legally not permissible. As regard to plea taken by learned counsel for the petitioner that after encashment of the cheque, petitioner shall be entitled to receive the interest amount for the period after 25.3.2014, the Court below has already passed order to take care of that aspect also as it has been mentioned in the order that if such necessity remains after the decision of the complaint under the Act, the decree holder can file execution petition afresh. That will take care of interest part, if any.

In view of above, there is absolutely no illegality in the order under challenge. The present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

January 8, 2016

"DK"