

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

C.R. No.7152 of 2016

Date of Decision.24.10.2016

Neeraj Bakshi s/o late Sh. M.M. Bakshi

.....Petitioner

Vs

M/s SIEL Chemical Complex and others

.....Respondents

Present: Mr. Rakesh Bhatia, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-judgment debtor is aggrieved of the impugned order whereby the application moved under Order 1 Rule 10 CPC for impleading official liquidator owing to the fact that the company had been wound up vide order dated 05.08.2014, though after the passing of the judgment and decree dated 11.02.2014.

Mr. Rakesh Bhatia, learned counsel appearing for the petitioner submits that the respondent-decree holder cannot seek execution of the decree against the personal assets of the Director but it can only be against the movable and immovable assets of the company, in view of the provisions of Section 457 of the Companies Act. In this backdrop of the matter, the application aforementioned was filed, as the company has to be represented through the official liquidator, which gives power to liquidator to defend any suit, prosecute legal proceedings, civil and criminal.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that the provisions of Section 457 are no longer in dispute. The liquidator has already given a non-objection as per the order dated 30.09.2015 passed in CP No.63 of 2015 in C.P. No.118 of 2012 which

reads as under:-

“Prayer in the petition is for continuation of the execution application on the premise that decree in Civil Suit bearing No.168RT dated 25.11.2005/2013 is prior to the passing of the winding up order dated 05.08.2014.

As per reply filed by Official Liquidator, Official Liquidator has no objection in case petitioner is permitted to continue with the execution application seeking the execution of the judgment and decree dated 11.02.2014.

In view of the fact that Official Liquidator has no objection, prayer in the petition is accordingly allowed. The petitioner shall be permitted to proceed and continue the execution proceedings initiated prior to the passing of the winding up order dated 05.08.2014.

Petition stands disposed of.”

The grievance as sought to be raised in the present revision petition seeking direction to implead the official liquidator is not correct but the remedy to move application lies elsewhere. Nothing stops the petitioner to raise appropriate objections at an appropriate stage by referring to the provisions of law, much less, the judgments, rendered by the Courts from time to time. I am of the view that impleadment of the official liquidator in respect of a decree passed prior to the winding up order, even if no objection has been given by the Official Liquidator, is not maintainable as the Official Liquidator would not be a proper and necessary party.

I view of the aforementioned, I am of the view that there is no ground made for interference in the impugned order. The revision petition is dismissed being devoid of merit.

(AMIT RAWAL)
JUDGE

October 24, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No