

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

C.R. No.8027 of 2015 (O&M)

Date of Decision.07.01.2016

Vinod Gupta, Director M/s Shri Ram Straws Products Ltd.....Petitioner

Vs.

M/s Apex Electricals and another

.....Respondents

Present: Mr. Amit Jain, 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 objection that is bound to be taken at the stage before the decree is passed, is what is argued with passion before this Court and persistently so, in spite of pointing out that the decree is passed personally against the person and the execution process cannot be stultified by an objection taken about the executability of the decree. It is a case of decree against a company and Managing Director described by his name. Any decree passed, under Indian Law, is joint and several unless otherwise stated. The contention which was raised at the stage of execution was that the personal property of the Director cannot be proceeded against.

2. The Executing Court rejected the contention and hence the revision petition. The counsel refers to me a judgment of this Court in

Kundan Singh Vs. Moga Transport Co.(P) Ltd. and another 1987(62)

Comp Cas 600 that examined the issue of whether a Collector could

proceed against the personal property of Director for the wages of the workers. The Court held that the personal property of Director cannot be proceeded for wages. This judgment has simply no application in a situation where the decree has actually been passed and the correctness of the decree cannot be examined by the Executing Court or this Court. The counsel says that there is a petition filed for setting aside the ex parte decree and the same is still pending. The Executing Court is bound to take the decree as it stands and execute it without allowing for any objection to be taken with reference to whether the Court could have passed the decree in the manner that it did. It will be impermissible for Executing Court to state that the decree passed was wrong or that there was no discussion about how the defendant had been made personally liable. These objections are impermissible at the execution stage and the same cannot be repeated before this Court as well.

3. The revision petition is meritless and it is dismissed.

(K. KANNAN)
JUDGE

January 07, 2016
Pankaj*