IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No.8645 of 2014
Date of decision : May 4, 2016

Ludhiana Stock Exchange Securities Ltd.
.... Petitioner

Versus

Rajinder Kaur
.... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vikas Mohan Gupta, Advocate
for the petitioner.

Mr. S. S. Chopra, Advocate
for the respondent.

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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?

Amit Rawal, J (oral).

The petitioner-judgment debtor is aggrieved of the impugned order Annexure P-1 whereby he has been called upon to restore the share in the account of the decree holder equivalent to 1935 shares of HDFC Bank on or before 22.12.2014. This Court while issuing notice of motion passed the following order:-

> *"It is inter alia contended that the value of share should have been taken on 2.12.2004.*
>
> *Notice of motion for 23.1.2015.*
>
> *In the meanwhile, the petitioner is directed to comply with the impugned order dated 3.12.2014 (Annexure P-1) passed by the Executing Court, by transferring 1935 shares of HDFC Bank in the account of the decree-*

holder.

*Learned counsel for the petitioner submits that since the petitioner is not having the account number of the respondent/decree holder, they will make the necessary submission before the Executing Court to provide the **Demat** account number.*

It is directed that the compliance of the impugned order be made at least two weeks before the next date.

In the meantime, on such transfer of the shares, the respondent shall retain the shares in her account intact."

The contention of Mr. Vikas Mohan Gupta, learned counsel appearing on behalf of the petitioner is that as per decree, the Ludhiana Stock exchange was directed to restore the status of the respondent-plaintiff as on 02.12.2014 by restoring 5000 shares of Bank of Punjab now merged into HDFC Bank in the account of plaintiff. The value of the share had to be taken as on 2.12.2004 and not today whereas the impugned order deals with the value of share at the time of filing of execution petition. The execution petition was seriously disputed by the objector and the order qua the value of the share was upheld. This fact has not been noticed by the court below.

He further submits that in the absence of any prayer under Section 40 of the Specific Relief Act, 1963 which deals with claim of damages either in addition to, or in substitution, therefore, the decree has become in-executable.

Learned counsel appearing on behalf of the respondent submits that decree is in terms of share and not in terms of money, therefore the petitioner-objector cannot be permitted to take the value of the share as on 2.12.2004. It is totally in defiance of the judgment and decree.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and substance in the submissions of learned counsel for the petitioner. It would be apt to reproduce operative part of the judgment:-

> *"In view of the facts, circumstances, evidence and my discussion, supra, suit of the plaintiff is decreed and defendant is directed to restore the status of the plaintiff as it was existed on 2.12.2004. Defendant should restore the 5000 shares of Bank of Punjab in the account of the plaintiff. As contended, now the Bank of Punjab has already been merged to Centurion Bank of Punjab and further to HDFC Bank, hence defendant is directed to restore the shares of the plaintiff equivalent to the value of 5000 shares of Bank of Punjab as on 2.12.2004 in the account of the plaintiff. Decree sheet be prepared accordingly and file be consigned to the record room after due compilation."*

The juxta position of the notice of motion order and operative part of the judgment reveals that it has seriously disputed the value of 5000 shares as on 2.12.2004 which has been ordered to be deposited in the account of the plaintiff and as per the statement given by HDFC Bank, the value of the number of shares and by taking value on 2.12.2004 has fallen to 1935 shares. It is in these circumstances, the impugned order was passed.

This Court vide order dated 19.12.2014 directed the petitioner to comply with the impugned order within two weeks before the next date which has been complied with.

In view of the aforementioned facts, I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

May 4, 2016
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