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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-8793-2014(O&M)
Date of decision : 02.02.2016

Jaswinder Mohan Singh and another

...Petitioners

Versus

Akhil Bhartiya Bank Employees Urban Salary Earners Thrifts and Credit Society Ltd. & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikas Singh, Advocate
for the petitioners.

Mr. Pirthi Singh Chauhan, Advocate
for respndent No.1-Society.

Mr. Rakesh Gupta, Advocate
for respondent No.2 (a, b, c).

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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)

CM-108-CII-2016

Prayer in this application is for releasing the amount of ₹ 1,00,000/- deposited, ₹ 50,000/- each by both the petitioners vide order dated 16.01.2015 to respondent No.1-Akhil Bhartiya

Bank Employees Credit Society, Chandigarh.

For the reasons stated in the application, the application is allowed and the amount of ₹ 1,00,000/- deposited, ₹ 50,000/- each by both the petitioners in favour of Registrar General of this Court, vide order dated 16.01.2015 along with interest, if any, is ordered to be released in favour of respondent No.1-Akhil Bhartiya Bank Employees Credit Society, Chandigarh.

CM stands disposed of.

CR-8793-2014

The petitioners-judgment debtors-sureties are in the revision petition who are aggrieved of the order dated 10.10.2014, whereby the objections filed by the petitioners to the execution proceedings have been partly accepted.

Mr. Vikas Singh, learned counsel appearing on behalf of the petitioners submits that an ex parte award dated 03.10.2010 was passed by the Arbitrator by determining the dispute between the Akhil Bhartiya Bank Employees Cooperative Urban Salary Earners Thrifts and Credit Society Ltd. (hereinafter called 'the Society') and Harjinder Pal Singh who had allegedly taken a loan of ₹ 10,000/- from Punjab and Sind Bank (hereinafter called 'the Bank'). The claim of the Bank was for recovery of ₹ 10,000/- as principal amount, ₹ 32751/- as interest upto 30.06.1998 and ₹ 10687/- as cost i.e. total amounting to ₹ 53438/-. He submits that the Society did not initiate any steps for recovery of amount against the LRs of the principal debtor as principal debtor had died in the year 2010. The Award contains the compounding of the interest which is not permissible. In support of his contentions, he has relied the judgment of this Court in "Ram Krishan V/s Har Phool Singh" 2013(1) PLR 552. He further submits that the loan was taken for the domestic purposes. The widow of principal debtor is also receiving the pension, therefore, the Society can attach the pension of the deceased-principal debtor. However, entire focus has been upon the sureties which is not permissible in law.

Mr. Pirthi Singh Chauhan, learned counsel appearing on behalf of respondent No.1-Society, submits that the objections filed at the instance of judgment debtor were not maintainable as the Executing Court could not go beyond the ex parte award. The ex parte award has not been challenged till today.

Mr. Rakesh Gupta, learned counsel appearing on behalf of LRs of principal debtor submits that interest may be reduced as it has increased more than the principal amount which is not permissible in the eyes of law.

I have heard the learned counsel for the parties and appraised the paper book.

It is matter of record that the principal debtor had also filed the objections against the execution of the ex parte award as noticed above. The ex parte award has attained finality. It would be apt to reproduce the operative part of the ex parte award dated 03.10.2013 which reads thus:-

> "*Therefore, I Malkiat Singh Officiating Inspector acting as Arbitrator having duly considered the matter hereby direct that Sh. Harjinder Pal Singh Sahn Loanee, Sh. Jaswinder Mohan Singh and Sh. Gurjit Singh, Sureties and the Branch Manager, Punjab and Sind Bank, the Mall, Patiala are jointly and severally liable to pay to the Society ₹ 10,000/- as principal amount, ₹ 32751/- as interest upto 03.06.1998, ₹ 3000/- as cost i.e. total ₹ 45751/-. Further interest on the principal amount plus interest shall be continue and to be charged @ 19.5% per annum, (calculated to be quarterly) till it is fully realized. The above said amount shall be paid upto 03.12.2000, if it is not so paid, it may be recovered from the debtor/sureties and Punjab and Sind Bank, the Mall, Patiala by the sale of property/salary through the Civil Court in execution.*
>
> *Announced in the presence of Sh. H.S. Hundal, Advocate and Sh. A.S. Ranga president for the Society."*

I am not in agreement with the plea on behalf of the petitioners-sureties that the Bank should realize outstanding dues, firstly from the principal debtor and thereafter, from the guarantors as the Award envisages the recovery of the due amount as jointly and severally. In the absence of any challenge to the Award which is attained finality, the objections of the principal debtor, in my view, are not sustainable, even otherwise, as per the ratio decidendi culled out by the judgment of Hon'ble Supreme Court in ***M/s Hyder Consulting (UK) Ltd. v. Governor, State of Orissa through Chief Engineer 2015(2) SCC 189,*** the Arbitrator has the power to award principal interest from the date of the dispute till its adjudication and thereafter, as per the provisions of Sub Section 7 of Section 31 of the Arbitration and Conciliation Act, 1996, from the date of passing of the award till its realization.

Keeping in view the aforementioned observations, no ground is made out for interference in the impugned order. Accordingly, the revision petition is dismissed.

02.02.2016 **(AMIT RAWAL)**
yogesh **JUDGE**