

SR. No. 115

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

CWP No. 9571 of 2016

Date of decision: 17.05.2016

**DAV College Trust and Management Society and another
.....Petitioners**

versus

**Dabwali Fire Tragedy Victims Association and others
.....Respondents**

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rajiv Kataria, Advocate
for the petitioners.

Rakesh Kumar Jain, J.(Oral)

This petition is filed to challenge the order dated 20.02.2015 (Annexure P-9) passed by the Sub Divisional Judicial Magistrate, Dabwali.

In short, while disposing of the writ petition bearing CWP NO. 13214 of 1996 on 9.11.2009 various directions were issued including the direction contained in clause 4 which reads as under:-

“The amount awarded by us together with interest shall be deposited by the respondents in the ratio indicated in para 2 above with the Additional Civil Judge(Sr.

Divn.), Dabwali for disbursement among the claimants within a period of 4 months from today, failing which the rate of interest awarded by us on the principal amount held payable, shall stand enhanced from 6% to 10% per annum from the date the period of 4 months expires till actual payment is made.”

Order dated 9.11.2009 was challenged by way of SLP (Civil) No(s). 6715/2010 in which an order was passed on 15.03.2010 which reads as under:-

“Issue notice on the condition that the petitioner shall deposit a sum of Rs. Ten Crores with the Additional Civil Judge, Senior Division, Dabwali, Sirsa, Haryana within six weeks from today. The learned Civil Judge, Senior Division shall see that this amount is proportionately distributed to the victims or L.Rs. of all the victims after their due verification.”

It is contended by counsel for the petitioner that pursuant to Order dated 15.03.2010, a sum of ₹10 crore was deposited by the petitioner in the Court of Additional Civil Judge, Senior Division, Dabwali, Sirsa, Haryana. Finally, SLP (Civil) No(s). 6715/2010 was disposed of by the Apex Court vide its order dated 23.01.2013, directing the petitioner to deposit the remaining awarded amount with the Civil Judge and the claimants were permitted to withdraw the same.

As a matter of fact, no relief was granted to the petitioner by the Apex Court when the Order dated 15.03.2010

was passed as no stay was granted and ultimately, the SLP was also dismissed.

It is further submitted by counsel for the petitioner that thereafter, an amount of ₹ 17 crore was deposited with the Additional Civil Judge, Senior Division, Dabwali, Sirsa towards discharging its entire liability of the principal amount along with interest accrued till the date of deposit. Thereafter, an application for revival of the execution application was filed by the Dabwali Fire Tragedy Victims in which the petitioner has filed the objection which has been dismissed by the Additional Civil Judge, Senior Division, Dabwali, on 20.02.2015.

Aggrieved against that order, the petitioner filed an appeal before the District Judge, Sirsa. However, the said appeal was withdrawn on 31.03.2016 on the ground that it was not maintainable and the liberty was granted to approach the appropriate Forum, if so advised, as per law.

Consequently, the present petition has been filed in which the only prayer made by the petitioner is that they may not be forced to pay 10% interest in terms of the direction of this Court contained in clause 4, referred to above and they may be allowed to pay at the most 6% interest as there is no fault on their part for not depositing the principal amount in time with the Additional Civil Judge, Senior Division, Dabwali as the petitioner had resorted to its remedy by filing special leave petition before the Apex Court against the order passed by the Division Bench of this Court on 9.11.2009. It is also contended that had notice not been issued in the SLP filed by the petitioner on 15.03.2010, they would

have deposited the entire amount in terms of the aforesaid direction contained in Clause 4 and would have saved from paying 4% as extra interest.

I have heard learned counsel for the petitioner and perused the available record.

So far as the facts are concerned, there is no dispute that the order passed by this Court on 9.11.2009 has been upheld by the Apex Court in its entirety. There is also no dispute that no stay was granted by the Apex Court on 15.03.2010 when notice was issued with the condition that the petitioner would deposit ₹10 crore with the Additional Civil Judge, Senior Division, Dabwali within six weeks from the date of passing of the order. Ultimately, the Apex Court did not agree with the petitioner for modifying any part of the order dated 9.11.2009 and rather directed the petitioner to deposit the remaining amount so that the persons who have suffered in Dabwali Fire Tragedy should be adequately compensated as early as possible.

Counsel for the petitioner has though argued that the SLP was filed within the period of 4 weeks counting from the date of order i.e. 9.11.2009 but no evidence is produced in that regard.

Be that as it may, the fact remains that no stay was granted on 15.03.2010, the petitioner can not claim the advantage of excluding the period when he was before the Apex Court while challenging the order dated 9.11.2009 for the purpose of allowing it to pay interest @6% instead of 10%. Thus, there is no error on the part of Additional Civil Judge, Senior Division, Dabwali in dismissing the objection of the petitioner and hence, the order

dated 20.02.2015 is hereby upheld. The petition is consequently,
dismissed.

17th May, 2016

Shivani Kaushik

[Rakesh Kumar Jain]
Judge