

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.2940 of 2017
Date of decision: May 15, 2017

Kuldeep Singh

...Petitioner

Versus

Haryana State Minor Irrigation Tubweell
Corporation and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sharan Sethi, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the orders dated 26.10.2016 and 13.02.2017, passed by the court below, whereby application filed by the judgment debtor for releasing the balance amount after withholding/deducting the decretal amount, has been allowed and execution has been dismissed as having been rendered infructuous.

Order has been challenged before this court on the ground that application was not maintainable and same has been filed just to delay legitimate claim of the decree holder/petitioner. Learned counsel for the petitioner further submits that the orders are unsustainable in law.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, petitioner filed a suit for declaration and mandatory injunction in the year 1997 to the effect that he was entitled to higher pay

scale to his juniors w.e.f. the date of his promotion as Assistant Foreman, with consequential benefits including arrears of pay. Said suit was decreed by the trial court on 22.02.2002. Appeal filed against the said judgment and decree was dismissed by the first appellate court on 14.6.2003. Regular Second Appeal filed by the respondent was also dismissed on 4.8.2005. However, this court observed that arrears of pay, which may accrue to the plaintiff on the application of the principle of 'stepping up', shall be restricted to 38 months prior to the date of filing of the suit i.e. 17.4.1997. The Corporation also preferred appeal before the Hon'ble Apex Court, which was also dismissed on August 20, 2015. Meanwhile, petitioner filed execution proceedings and the executing court vide order dated 3.4.2013, attached amount of Rs.15,62,035/- of the respondent Corporation. Thereafter, respondent Corporation filed application for releasing the balance amount after withholding the decreetal amount out of the total amount attached by the court, vide order dated 3.4.2013. Said application was allowed by the executing court, vide order dated 26.10.2016. It directed the concerned Department to release the remaining amount of Rs.15,47,054/- after deducting decreetal amount i.e. Rs.14,981/-. On 13.02.2017, the judgment debtor made statement before the executing court that on 06.01.2017, the attached amount had been released by the IDBI Bank vide order dated 26.10.2016 after deducting the decreetal amount. Thus, executing court dismissed the execution having been rendered infructuous.

I find no infirmity with the orders passed by the executing court. A perusal of order dated August 04, 2005, it is evident that

judgments and decrees of the trial court as well as the appellate court was modified and arrears of pay of the decree holder was restricted to 38 months prior to the date of filing of the suit. The revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

May 15, 2017
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No