254

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.3040 of 2017
Date of Decision: 09.11.2017

SUN PHARMACEUTICAL INDUSTRIES LIMITED
......Petitioner

Vs

ASHISH VIJ
....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. M.P.S. Mann, Advocate for the petitioner.

Mr. P.S. Sarna, Advocate for the respondent.

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RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the orders dated 07.02.2017 and 20.03.2017 passed by the executing Court whereby the application filed by the petitioner for furnishing bank guarantee for an amount of Rs.35,48,650/- was dismissed.

[2]. Vide order dated 07.02.2017 passed by the trial Court, admittedly the judgment debtor was directed to make payment of an amount of Rs.35,48,650/- to the decree holder and it was noticed that the said amount was an admitted amount as per version of the judgment debtor.

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[3]. The suit filed by the plaintiff-respondent was decreed by the trial Court. The decree of the trial Court was upheld by the lower Appellate Court and the Regular Second Appeal filed by the petitioner is pending before the High Court. The prayer made by the petitioner before the trial Court was dismissed vide order dated 20.03.2017 and the judgment debtor was directed to deposit the amount immediately before 28.04.2017, failing which warrants of attachment were to be issued. That is how the present revision petition came to be filed before this Court.

[4]. At the time of motion hearing on 28.04.2017, following order was passed by the co-ordinate Bench of this Court:-

> *"Learned counsel for the petitioner submits that regular second appeal impugning the judgment and decree passed by learned trial Court as well as by learned First Appellate Court has been filed by the petitioner before this Court but so far in that appeal, notice of motion has been issued. It is submitted that during the execution procedings the petitioner is ready to deposit the amount of Rs.35,48,650/- as ordered by learned executing court within ten days but the same be disbursed to the respondent on his furnishing a surety bond of an equivalent amount.*
>
> *Notice of motion for 28.9.2017.*
>
> *As per the undertaking given, the petitioner shall deposit the amount of Rs.35,48,650/- with the executing court within ten days from today, which shall be disbursed to the respondent against security of an equivalent*

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amount."

[5]. Reading of the aforesaid order would show that the amount in question was never bifurcated in the ratio of Rs.25,45,000/- towards principle and Rs.9,03,650/- towards income tax deduction at source.

[6]. In compliance of the aforesaid order the petitioner is alleged to have deposited an amount of Rs.26,45,000/- in the executing Court for which the decree-holder has already furnished the surety bond of the equal amount. The petitioner has deposited an amount of Rs.9,03,650/- towards income tax deduction at source.

[7]. In the application dated 08.05.2017, submitted before the executing Court, the petitioner has furnished the details in para No.3 by mentioning that the aforesaid payment towards income tax deductions have been made, but in fact there was no such deposit made at the time of filing of the application on 08.05.2017, rather the tax deductions were deposited in the concerned office in the month of September 2017. The reading of the order dated 28.04.2017 would not show in any manner the bifurcation of the total amount which has been proposed by the petitioner in the application dated 08.05.2017.

[8]. In my considered opinion, since the petitioner has already undertaken that the amount of Rs.35,48,650/- will be

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deposited in the executing Court within 10 days, therefore, this Court is not inclined to accept any other hypothesis on the basis of such calculations and deductions made by the petitioner at a later stage.

[9]. In view of above, let the remaining amount of Rs.9,03,650/- be deposited by the petitioner within fortnight in the executing Court on the same terms and conditions as observed in the order dated 28.04.2017, failing which this revision petition shall be deemed to have been dismissed.

[10]. With the aforesaid direction, this revision petition is disposed of. Normal consequences to follow.

November 09, 2017 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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