

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-493-2010(O&M)

Date of Decision:31.05.2017

Kamal Sajdeh

.....Petitioner

Versus

Surinder Sajdeh

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Vikram Chaudhary, Senior Advocate,
with Ms.Isha Goyal, Advocate,
for the petitioner.

Mr.M.L.Saggar, Senior Advocate,
with Mr.Sunny Saggar, Advocate,
for the respondent.

RAMESHWAR SINGH MALIK, J.(Oral)

CM-31913-CII-2012

Applicant seeks impleadment.

Learned senior counsel for the applicant, at the very outset,
fairly states that let the instant application be dismissed as not pressed.

Ordered accordingly.

CR-493-2010(O&M)

With the consent of learned counsel for the parties, civil
revision petition is taken on Board for final disposal. Efforts for amicable
settlement failed.

It has gone undisputed before this Court that arbitral award
dated 01.02.2003 has attained finality between the parties. When the
respondent approached the Bombay High Court for execution of the award
dated 01.02.2003, it transpired that some of the properties which were

subject matter of the award dated 01.02.2003 were situated in Amritsar.

In this view of the matter, Bombay High Court vide communication dated 06.12.2005 (Annexure P-2) issued a precept to the learned District & Sessions Judge, Amritsar for execution of the award dated 01.02.2003 against the defendant, who is petitioner herein.

Relevant part of the precept dated 06.12.2005 (wrongly typed as 06.12.2009) (Annexure P-2) reads as under:

“Re: High Court O.O.C.I.

Award dated 01st February 2003

Mr.Surinder Sajdeh

Plaintiff

Vs.

Mr.Kamal Sajdeh and another

Defendants

Sir,

At the request of M/s Kantawala & Co. Advocate for the plaintiffs above named, I have the honour to forward herewith original Award dated 01st February 2003 and copy of Affidavit dated 14th November 2005 of the plaintiff above named along with Certificates under Order XXI, Rule 6 Clause (b) & © of the Code of Civil Procedure 1908 under the seal of this Hon'ble Court for the purpose of being executed against the defendants at Amritsar (Punjab) under Section 39, Order XXI, Rule 5 and 6 of the Code of Civil Procedure 1908.

Kindly acknowledge the receipt.”

It was in compliance of the above-said order of the Bombay High Court that the learned Additional District Judge, Amritsar passed the impugned order dated 24.12.2009 (Annexure P-7) and the operative part thereof at page 60 of the paper-book, which deserves to be noticed here, reads as under:-

“Both counsel for the parties have made submissions in accordance to their pleadings and no new thing has come

on the file. The award is dated 1.2.2003. The execution is transferred to this Court vide order of Honourable Bombay High Court which is not disputed. As per the award at Serial No.22(ii) there is description of Baly Woolen property which fell into the share of Surinder Sajdeh. This court is empowered to execute the award according to law. Baly Woolen property fell into the share of applicant Surinder Sajdeh. When the award has attained the finality and not under challenge in any court, Baly Woolen property fell into the share of applicant then the objections are without merits. Accordingly, warrants of possession be issued for 29.1.2010.”

It is a matter of record and not in dispute that no more litigation was pending where the above-said award dated 01.02.2003 might be under challenge because the said award has already attained finality between the parties. Above-said precept issued by the Bombay High Court vide Annexure P-2 is also a matter of record. Under these circumstances, it can be safely concluded that the learned Additional District Judge, Amritsar was well within his jurisdiction to pass the impugned order and the same deserves to be upheld.

It is the settled proposition of law that the executing Court will not go behind the decree. As noticed here-in-above, award dated 01.02.2003 has already attained finality between the parties. No more litigation is pending in this regard, where either of the parties might have challenged the award dated 01.02.2003. Learned Additional District Judge was duty bound to execute the award dated 01.02.2003, in compliance of the precept (Annexure P-2) issued by the Bombay High Court. That is what he has done by passing the impugned order. Under these undisputed facts and circumstances of the case, no fault can be found with the impugned order as

the learned Additional District Judge, Amritsar has committed no error of law and the impugned order deserves to be upheld, for this reason also.

During the course of hearing, learned senior counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned executing Court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has not been found suffering from any patent illegality, the same deserves to be upheld. The present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

However, before parting with it, it is made clear that the parties to this litigation would be at liberty to pursue their other respective claims, arising out of the award dated 01.02.2003, before the appropriate Forum, in accordance with law.

Resultantly, with the above-said observations made, the instant revision petition stands dismissed, however, with no order as to costs.

May 31, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

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