

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

CR No.4697 of 2015

Date of decision : 25.08.2017

M/s Indian Overseas Bank

...Petitioner

Versus

M/s Monika India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nitin Jain, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

As per office report, respondent Nos.1 and 2 have been served.

However, no one is present, therefore, respondent Nos.1 and 2 are proceeded against ex parte.

Petitioner is in revision petition against the order dated 21.05.2015 passed by Civil Judge (Junior Division), Ludhiana, whereby application filed by the petitioner-Bank for disposal of the contempt petition has been dismissed.

Respondent Nos.1 and 2 had filed a suit for mandatory injunction directing the defendants to pay the interest by bankers cheque/pay order/bank draft to the plaintiff due on all the special fixed deposits. During the pendency of the suit, the Civil Court passed an order, which is extracted as under:-

“In the circumstances the application of the plaintiff/applicant is hereby allowed in the interest of justice and the defendants are directed to renew the SFDRs of the plaintiff from the date of its maturity to credit interest

thereupon in accordance with the law and the defendants are also bound to renew the Special Fixed Deposits from time to time until the Special Fixed Deposits either are not withdrawn by the plaintiff or not paid to the creditors of the plaintiff in accordance with the law, so this application stands allowed with these observation without expressing any opinion on the merits of the case.”

The plaintiffs had filed a petition under the Contempt of Courts Act, 1971 before the Civil Judge on the ground that the aforesaid order dated 17.08.2002 as extracted above, has not been complied with.

On notice issued, the petitioner filed reply contesting that under the Contempt of Courts Act, 1971, the Civil Judge has no jurisdiction.

The petitioner also filed a separate application for dismissal of the contempt petition on the ground that the Civil Judge has no jurisdiction to initiate the proceedings under the Contempt of Courts Act, 1971. Civil Judge (Junior Division), has chosen to dismiss the aforesaid application vide order dated 21.05.2015.

It was noticed that in the meantime, civil suit itself has been decided on 24.05.2010. The suit filed by the plaintiff has been partly decreed.

There is no doubt that the Contempt of Courts Act, 1971 does not enable the Civil Court to initiate the proceedings under the Contempt of Courts Act, 1971. Section 10 of the Contempt of Courts Act, 1971, enables the High Court to enquire into and try a contempt of itself or of any Courts subordinate to it. Sections 10 and 11 of the Contempt of Courts Act, 1971 are extracted as under:-

“10. Power of High Court to punish contempts of subordinate courts.-- Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempt of courts subordinate to it as it has and exercises in respect of contempts of itself:

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code, 1860 (45 of 1860).

11. Power of High Court to try offences committed or offenders found outside jurisdiction.--- A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.”

A reading thereof would show that the Civil Court does not have jurisdiction to initiate the proceedings under the Contempt of Courts Act, 1971.

In view of the discussion made above, the order passed by the Civil Judge (Junior Division), Ludhiana is clearly without jurisdiction and hence, set aside.

Revision petition is allowed.

25.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**