

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CR No.4873 of 2017

Date of decision:28.7.2017

Ranjit Singh

...Petitioner

Versus

Mahindra & Mahindra and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Ashish Aggarwal, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

It is the judgment debtor, who is in the revision petition before this Court under Article 227 of the Constitution of India, against the order dated 8.2.2017 (Annexure P-5) passed by the learned executing court, whereby his two applications for setting aside the ex parte proceedings and staying operation of conditional warrants, were dismissed.

Heard learned counsel for the petitioner.

Before proceeding further, it is relevant to refer to the observations made by the learned executing court in operative para 7 of its order and the same reads as under:-

“Perusal of record reveals that award holder has filed this execution for enforcement of the award dated 18.07.2012 as JDs had failed to satisfy the said award passed against them. Earlier, notice of the execution was issued to the JDs. JD No.1 appeared through Shri M.S.Chahal, Advocate, but none appeared on behalf of JD No.2. Hence, he was proceeded

against ex-parte. On 9.1.2015, decree holder moved an application under Order 21 Rule 41 CPC and copy of the same was supplied to Counsel for JD No.1. On 30.3.2015 case was fixed for filing reply to said application, but none appeared on behalf of JD No.1, so warrants of attachment of property of JD No.1 was issued, but the attachment was not effected and then, on 02.07.2016, counsel for the decree holder stated that the decree holder company does not possess any list of property of JD, so, conditional warrants of JDs be issued. Accordingly, conditional warrants of JDs were issued for 30.07.2016, 03.09.2016, 26.09.2016, 15.10.2016, 03.11.2016, 21.11.2016, 07.12.2016, but the same were not executed and then, on 07.12.2016, Shri Jagandeep Singh, Advocate, appeared and filed power of attorney on behalf of JD No.1 and filed the instant applications. The version of the applicant that his earlier counsel was negligent in contesting the case and that his absence was not intentional, has no merit. The applicant was aware of the filling of executing against him, but he did not bother to satisfy the award under execution and has filed these applications just to delay the proceedings of this case. I do not find any ground to set aside the order dated 30.03.2015 and to stay the operation of conditional warrants. So, the applications are accordingly dismissed.”

When confronted with the above-said observations made by the learned executing court and pointing out any patent illegality in the impugned order, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. In fact, a bare reading of the impugned order passed by the learned executing court would make it crystal clear that the petitioner-judgment debtor has been glaringly misusing the process of law.

Award, which is being sought to be executed against the

petitioner is dated 18.7.2012. Petitioner has failed to satisfy the award and that too for no good reasons. In this view of the matter, it is very easy to allege on the part of the petitioner that his earlier counsel was negligent in contesting the case. During the execution proceedings, numerous opportunities have been granted to the petitioner but he did not come forward as if he was not obliged to ensure strict compliance of the orders of the court.

Conduct of the petitioner himself has left him totally disentitled for any kind of discretionary relief. Once the award dated 8.7.2012 has attained finality against the petitioner, learned executing court was duty bound to execute the said award, in accordance with law. Only that is what was being sought to be done by passing the impugned order. Having said that, this Court feels no hesitation to conclude that the learned executing court was well within its jurisdiction to pass the impugned order and the same deserve to be upheld.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, 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 is supported by sound reasons, because of which no fault can be found with it 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 the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

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

28.7.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No