

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

**CR No.6526 of 2015
Date of Decision:29.9.2017**

Smt.Kaushalaya Devi

...Petitioner

Versus

Haryana State and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms.Harpreet Kaur, Advocate for
Mr.Amit Jain, Advocate for the petitioner.
Mr. Manoj Kumar Sangwan, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 24.9.2014 (Annexure P-4) passed by the learned executing court, whereby the execution petition was disposed of, decree holder has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that petitioner was the decree holder. A bare perusal of the impugned order particularly the operative part in para 4 thereof would show that the learned executing court has repeatedly observed that the facts supplied by the judgment debtors seem to be correct. However, no sound reasons were recorded in support of such observations.

The statement furnished by the judgment debtor could not have been treated to be a gospel truth in the absence of any supporting material. In this

regard, since the impugned order has been found to be a non speaking one, it cannot be sustained.

The details given by the decree holder vide Annexure P-3 do not find even mentioned in the impugned order passed by the learned executing court which also makes the impugned order to be unsustainable in law. No doubt the decree holder shall not be entitled for anything beyond the decree, but it is also equally true that the decree holder must get the fruits of the decree in the manner it was passed by the court. The decree has to be executed as it is and the decree holder must get his due, strictly in accordance with the decree which has attained finality. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned executing court failed to appreciate the above-said factual as well as legal aspect of the matter, before passing the impugned order and the same cannot be sustained, for this reason also.

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 been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order dated 24.9.2014 passed by the learned Additional District Judge is hereby set aside.

The learned executing court is directed to grant one more opportunity to both the parties to substantiate their respective claims by supporting the same with relevant material, placing on record the relevant documents, if any. Thereafter, the learned executing court shall

pass fresh order, in accordance with law. However, whatever amount has been received by the decree holder, that shall be adjusted at the time of making the final payment, in case decree holder is found entitled for receiving some more amount.

Resultantly, with the above-said observations made and directions issued, the instant civil revision petition stands allowed, however, with no order as to costs.

29.9.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

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