

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR No.6259 of 2017 (O&M)  
Date of decision: 22.09.2017

**The Bhiwani Central Cooperative Bank Ltd.**

**... Petitioner**

**Vs.**

**The Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Civil  
Judge (Sr. Divn.), Bhiwani and another**

**... Respondents**

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

Present: Mr. Pardeep Solath, Advocate  
for the petitioner.

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**RAMESHWAR SINGH MALIK, J. (ORAL)**

Feeling aggrieved against the impugned order 01.05.2017 (Annexure P-6) passed by the learned executing Court, whereby claim of the judgment-debtor for recovering the alleged embezzled amount from the legal heirs of a former workman was declined, petitioner has approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

Before proceeding further, relevant observations made by the learned executing Court in paras 2 and 3 of the impugned order, which deserve to be noticed here, read as under: -

*“As per the objections filed by the judgment debtors, an appeal has been filed against this award, but no stay has been granted*

*as yet. The judgment debtor is entitled to recover some embezzled amount of the dues of deceased Radhey Shyam.*

*The decree in question is not disputed by the judgment debtors. They just claim to set off some embezzled amount against the payment required to be made to the decree-holders. Now, it is clear that the award passed by the Industrial Tribunal cannot be nullified by the judgment debtors by claiming any set off. This set off should have been claimed by them in the proceeding before the Tribunal in question and only the Tribunal could have adjudicated upon the validity or otherwise of the said claim of the judgment debtors. This Court, being an executing Court, can only enforce the award of the Tribunal, in totality. Hence, the judgment debtors are ordered to make the payment as ordered by the Industrial Tribunal by 15.07.2017.”*

Learned counsel for the petitioner submits that payment could not be made by the judgment-debtor/petitioner to the respondents by 15.07.2017 and now the matter is listed before the learned executing Court for 29.09.2017. Placing reliance on the judgments in **Saroj Ranjan Sinha and others Vs. Joy Durga Dasi, AIR 1934 Cal 140 (Calcutta High Court), Bhoganadham Seshaian Vs. Budhi Veerabhadrayya (died) and others, AIR 1972 AP 134 (Andhra High Court) and Bijaysingh Mansingh Baid and others Vs. Mansingh H. Baid, 2000 (2) BomCR 580 (Bombay High Court)**, learned counsel for the petitioner submits that the judgment-debtor/petitioner was entitled to recover the embezzled amount from the dues of the deceased Sh. Radhey Shyam, predecessor-in-interest of the contesting

respondents.

After hearing learned counsel for the petitioner and going through the cited judgments, this Court is of the considered opinion that the contention raised by learned counsel for the petitioner is wholly misconceived. It is so said because neither any of the cited judgments is of any help to the petitioner nor the impugned order is suffering from any patent illegality, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

In none of the cited judgments, the execution of award of Industrial Tribunal was involved. In the present case, workman late Sh. Radhey Shyam was terminated from service by the petitioner management w.e.f. 20.12.2002. The learned Industrial Tribunal vide its award dated 01.10.2014 (Annexure P-1) has held that the legal heirs of workman late Sh. Radhey Shyam would be entitled to receive 50% back-wages of the workman from 20.12.2002 till death or retirement of the workman, whichever is earlier. The claim of the petitioner/judgment-debtor to recover the alleged embezzled amount from the retiral benefits of the deceased came to be decided in favour of the petitioner by the Arbitrator vide arbitration awards dated 02.11.2004 (Annexure P-4) and 29.10.2004 (Annexure P-5), meaning thereby on 20.12.2002, there was no such arbitration award in favour of the petitioner.

Further, when asked to give any reasonable explanation for not executing the arbitration awards dated 02.11.2004 (Annexure P-4) and 29.10.2004 (Annexure P-5) during all these long 13 years, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. In this view of the matter, the learned executing Court has been found well within its

jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

It is also not in dispute that the award dated 01.10.2014 (Annexure P-1) passed by the learned Industrial Tribunal has been challenged by the petitioner management by way of writ petition bearing CWP No.9478 of 2015, which is stated to be pending decision. However, learned counsel for the petitioner has fairly conceded that there is no stay order granted by this Court against execution of the Labour Court award dated 01.10.2014. When the petitioner management failed to get any favourable order from this Court in the writ petition, the petitioner tried to play smart and put this alleged claim to set off before the learned executing Court, permitting it to recover the alleged embezzled amount from the dues of the deceased Radhey Shyam, which the contesting respondents are entitled to receive. Under these peculiar facts and circumstances of the case noticed above, no fault can be found with the impugned order passed by the learned executing Court and the same deserves to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioner could not point out 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.

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 no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The revision petition having

been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[ RAMESHWAR SINGH MALIK ]  
JUDGE

22.09.2017  
*vishnu*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No