

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

**CR No.7949 of 2015 (O&M)
Date of Decision: 20.09.2017**

M/s. K.K. Erectors

... Petitioner

Versus

State of Punjab and another

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harpreet Kaur, Advocate for
Mr. K.K. Goel, Advocate
for the petitioner.

Mr. Puneet Bhandari, Advocate
for the respondent-Corporation.

ANIL KSHETARPAL, J. (ORAL).

By this common order, I shall be disposing of CR Nos.7949 and 8005 of 2015 as common legal issue is involved.

The petitioners before me are the decree-holders. Learned arbitrator has passed an award in favour of the decree-holders, which was made rule of the Court vide order dated 8.10.1993. An appeal was preferred before this Court against the order, which was transferred to the District Judge and ultimately dismissed.

The legal issue which requires determination is how the amount deposited by the judgement-debtors is to be adjusted. It is the case of the decree holders-petitioners that the amount deposited by the judgement-debtors is to be adjusted first towards costs, then towards interest and thereafter towards principal. Whereas on the other hand, it is the case of the

respondents that the respondent-Corporation had deposited the amount as per interim order passed by the High Court and, therefore, the principal stood paid and thereafter no further interest accrues in favour of the decree-holders.

The interim order passed by this Court while admitting the first appeal against the judgement passed by the Court making the award rule of the Court is reproduced as under: –

“After having heard the learned counsel for the parties, order dated December 5, 1994 is modified to the extent that the entire award amount minus interest is to be deposited with the trial Court within two months and the same is to be released to the respondent on furnishing work bank guarantee.

Civil Misc. application disposed of.

FAO admitted.”

Similar order was passed in the other appeal.

Learned Executing Court has accepted the objection petition filed by the judgement-debtors and recorded a finding that since principal amount stood deposited as per the directions of the High Court, therefore, the decree-holders are not entitled to contend that the amount paid would be adjusted first towards costs, then towards interest and thereafter it can only be adjusted towards principal.

It is well settled that in normal course whenever the decree is for payment of amount along with interest, the amount is to be adjusted first towards costs, then towards interest and thereafter if any thing is left,

towards principal. With respect to the compensation payable under the Land Acquisition Act, a Constitution Bench of the Hon'ble Supreme Court in the judgement reported as 2006(8) SCC 457 Gurpreet Singh Vs. Union of India, has concluded that for satisfaction of the decree for payment of amount alongwith interest is to be firstly adjusted towards costs, then towards interest and thereafter towards principal amount. Learned Executing Court has deviated from the aforesaid principle simply on the basis of an interim order passed by this Court. The interim order is only passed while granting stay. Such interim order would not change the law of the land. It is not in dispute that thereafter the appeal filed, which was of course transferred to the Court of the District Judge, was dismissed. Therefore, the respondent-Corporation cannot by taking the benefit of interim order passed by this Court change the entire scheme of adjustment of the amount towards satisfaction of the decree.

In view of what has been stated above, the order passed by the Executing Court dated 28.08.2015 is set aside. The Executing Court is directed to re-decide the objections in accordance with what has been said above.

The revision petitions are allowed.

(ANIL KSHETARPAL)
JUDGE

20.09.2017
sk

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