

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

CR-7966 of 2015 (O&M)

Date of Decision:18.04.2017

New India Assurance Company

.....Petitioner

Versus

Gulzar Singh and others

.....Respondents

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

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

Mr.Munish Gupta, Advocate,
for respondent No.1.

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition, at the hands of judgment debtor, filed under Article 227 of the Constitution of India, is directed against the order dated 12.08.2015 (Annexure P-4) and also the review order dated 22.09.2015 (Annexure P-6), whereby objections raised by the petitioner to the execution application of the claimants-respondents, were dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the impugned order dated 12.08.2015 (Annexure P-4) and also the order dated 22.09.2015 (Annexure P-6) will make it crystal clear that the learned executing Court has rightly appreciated the facts of the case as well as the order dated 10.01.2014 (Annexure P-1) passed by this Court in FAO No.6470 of 2010 (**Gulzar Singh Versus Birakh Ram and others**). Once, this Court has relied upon a judgment of

Bihar and others, 2001(4) RCR(Civil) 673, assessing the contribution of the deceased house wife as ₹36,000/- per annum, there was no question of applying any deduction thereto. Applying any deduction would have run counter to the judgment passed by the Hon'ble Supreme Court in **Lata Wadhwa's case(supra)**.

Similarly, this Court placed reliance on a judgment of the Hon'ble Supreme Court in **Sarla Verma Versus Delhi Transport Corporation, 2009(3) RCR(Civil) 77**, to increase the multiplier from 5 to 9. There was no third argument raised by the learned counsel for the petitioner. Both these arguments raised by learned counsel for the petitioner regarding contribution of the deceased house wife as well as multiplier have been found wholly misplaced for the reason that these are contrary to the order dated 10.01.2014 (Annexure P-1) passed by this Court. Having said that, this Court feels no hesitation to conclude that the learned executing Court was well within its jurisdiction to pass the impugned orders and the same deserve to be upheld. It goes without saying that the decree has to be executed as it is, until a factual mistake is pointed out by the judgment debtor.

A bare perusal of the order dated 10.01.2014 passed by this Court in FAO No.6470 of 2010 will make it crystal clear that the petitioner-insurance company was not only party to the abovesaid appeal before this Court as respondent No.3 but it was also duly represented by its counsel. In this view of the matter, the inevitable conclusion is that there was no scope at the hands of the petitioner-insurance company to claim any ignorance in this regard. Neither there was any ambiguity in the order dated 10.01.2014 passed by this Court in FAO No.6470 of 2010, nor any such ambiguity has

been pointed out by the learned counsel for the petitioner either on facts or in law. In this view of the matter, no fault can be found with the impugned orders passed by the learned executing Court and the same deserve to be upheld, for this reason as well.

It is also the settled proposition of law that the learned executing Court would not go behind the decree. In fact, no such argument has been raised on behalf of the petitioner either about any factual mistake in the decree passed nor any facts or figures have been pointed out therein. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned executing Court committed no error of law, while passing the impugned orders and the same deserve to be upheld, 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 orders have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. The present revision petition has been found 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 instant revision petition stands dismissed, however, with no order as to costs.

April 18, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No