

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8456 of 2014 (O&M)
Date of decision: 23.02.2017

Jaswant Kaur

... Petitioner

Vs.

Union of India

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Jindal, Advocate
for the petitioner.

Mr. Vivek Singla, Senior Panel Counsel
for the respondent.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 10.07.2014 (Annexure P-2) passed by the learned Additional District Judge, dismissing the application for restoration of the execution application, petitioner has approached this Court by way of instant revision petition under Article 227 of the Constitution of India, for setting aside the impugned order dated 27.08.2002 (Annexure P-1), whereby the execution application was dismissed in default and also the order dated 10.07.2014 (Annexure P-2), whereby the application for restoration, was dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

Learned counsel for the petitioner submits that since number of cases were pending, a bonafide wrong impression was gathered by the learned counsel representing the petitioner before the learned executing Court that the case had been adjourned sine die on 25.09.2003, to await the outcome of the case titled as Gurpreet Singh Vs. Union of India, which was pending at that time before the Hon'ble Supreme Court. However later on, it transpired that execution application of the petitioner, as a matter of fact, had been dismissed in default on an earlier point of time i.e. on 27.08.2002 vide order Annexure P-1. He further submits that this was the bonafide wrong impression gathered by learned counsel for the petitioner and the petitioner was not going to gain anything in not pursuing her execution application, particularly when her entitlement to receive the compensation on account of statutory benefits, was hardly in dispute. He prays for setting aside the impugned orders, by allowing the present revision petition.

Per contra, learned counsel for the respondent-Union of India submits that the petitioner was negligent in conducting execution application. There was no occasion for the petitioner to gather the impression that the case had been adjourned sine die on 25.09.2003. He also submits that as a matter of fact, there is no such order dated 25.09.2003. The application for restoration of the execution application was filed after an inordinate long delay and the same has been rightly dismissed by the learned Court below. He prays for dismissal of the present revision petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful

consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case noticed hereinabove, impugned orders (Annexures P-1 and P-2) have caused a manifest injustice to the bonafide litigant, whose entitlement to receive the statutory benefits under the Land Acquisition Act, 1894 were not even in dispute.

It has gone undisputed before this Court that the matter could not be decided on merits. There was no intentional fault on the part of the petitioner. Learned counsel for the petitioner has been found justified in contending that petitioner was not going to gain anything, while not pursuing her execution application. Having said that, this Court feels no hesitation to conclude that the learned Court below failed to appreciate this material aspect of the matter, while passing the impugned orders and the same cannot be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every Court of law must make an endeavour to decide the lis between the parties on its merits, instead of technicalities, so as to achieve twin objects; namely to avoid multiplicity of litigation between the parties and also to do complete and substantial justice. It is also not in dispute that the case titled as Gurpreet Singh Vs. Union of India had been pending before the Hon'ble Supreme Court for quite some time and finally, it came to be decided in the year 2006. Under these peculiar facts and circumstances of the case, it can be safely concluded that the applicant was entitled to get her execution application restored and the impugned orders 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 orders have been found suffering from patent illegality, the same cannot be sustained. Accordingly, the impugned order dated 27.08.2002 (Annexure P-1) as well as the impugned order dated 10.07.2014 (Annexure P-2) are hereby set aside. Application of the petitioner for restoration of her execution application is allowed and the execution application would stand restored to its original number.

Consequently, learned executing Court is directed to proceed further with the execution application of the petitioner and decide the same at an early date, by passing an appropriate order, in accordance with law.

Parties are directed to appear before the learned executing Court on 22.03.2017.

Resultantly, with the abovesaid observations made and directions issued, present revision petition stands allowed, however, with no order as to costs.

23.02.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No