

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL REVISION No. 8767 of 2015
DECIDED ON: MAY 08, 2017

JUJHAR CONSTRUCTION AND TRAVELS PVT. LTD.

....PETITIONER

VERSUS

PALMINDER @ PARMINDER PAL SINGH & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Surinder Gandhi, Advocate
for the petitioner.

Respondent No.3 already *ex-parte*
(vide order dated 26.02.2016)

JASPAL SINGH, J

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioner has sought the quashing of order dated November 20, 2015 (Annexure P-5) passed by learned Additional District Judge, Executing Court in Execution Petition No. 43/14.08.2012 in MACT case No. 94 dated July 27, 2009 decided on January 27, 2012, titled as Palminder Singh @ Parminder Pal Singh Vs. Raj Singh and others with further prayer to decide the review petition (Annexure P-3) filed by the

petitioner as well as seeking directions to learned Tribunal to decide the application dated March 16, 2015 (Annexure P-4) for setting aside the ex-parte award dated January 27, 2012 (Annexure P-2) with further prayer to stay the order dated November 20, 2015 (Annexure P-5).

The contention of learned counsel for the petitioner is that an ex-parte award dated January 27, 2012 was passed by learned Motor Accident Claims Tribunal, Ludhiana, while disposing of a claim petition i.e. MACT No. 94, dated July 27, 2009 and respondent No.1 filed an execution application wherein, executing Court was pleased to issue notice to the petitioner. On November 15, 2014 petitioner filed a review petition before the executing Court the notice of which was also issued to respondents. However, respondent No.3-insurance company also moved an application for setting aside the ex-parte award. Learned Tribunal issued notice in the afore-said application as well as ex-parte proceedings. Though, a review petition filed by the petitioner as well as an application filed by respondent-company for setting aside the ex-parte proceedings as well as award are still pending before learned Tribunal. Yet, the learned Tribunal has changed the award without issuing notice to the petitioner. The impugned order(s) suffers from material infirmities and illegalities. Despite the fact that afore-said proceedings are still pending, learned Tribunal vide order dated November 20, 2015 has wrongly invoke the provisions of Section 174 of the Motor Vehicle Act (for short 'Act')

recommending the recovery to be effected as arrears of land revenue. The action of learned Tribunal while initiating the proceedings while recovery of amount of compensation from the petitioner by resorting the provision of land revenue act is absolutely unwarranted. Rather, the proceedings in the execution petition should have been stayed till the disposal of an application for setting aside the ex-parte proceedings/award as well as review petition.

This court has given an anxious thought to the various submissions made by learned counsel for the petitioner but find the same to be without any legal or factual weight.

The warrants of attachment of properties of JD Nos. 1 and 2 were issued time and again for the recovery of amount of compensation but the same were being received back un-executed. Invoking of provisions of Section 174 of the Act, authorizing the Collector to effect the recovery of balance amount of compensation cannot be said to be illegal or unwarranted.

There is no illegality or impropriety in the impugned order(s). Otherwise also, award is still in operation and has not so far been set aside. The mere fact that an application for review or that of setting aside of an ex-parte proceedings/award are pending does not *ipso facto* mean that an ex-parte award cannot be executed or implemented. Since, this Court is of the considered view that there is no illegality or infirmity in the impugned

order(s), instant revision is dismissed.

No order as to costs.

JASPAL SINGH
JUDGE

MAY 08, 2017

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Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*