IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.3032 of 2014
Date of Decision.30.01.2018

Puro ....Petitioner

Vs

State Bank of India and another ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sarju Puri, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner-decree holder is aggrieved of the impugned order rendered by the Executing Court whereby the execution petition claiming the amount as per the calculation submitted by the petitioner has been rejected and interest @6% only has been awarded.

Mr. Sarju Puri, learned counsel appearing on behalf of the petitioner submitted that in civil suit titled as “Smt. Puro vs. State Bank of India and Ram Lal Khutan” was filed seeking mandatory injunction for release of the FDR No.738532 of an amount of ₹53,905/- as on 18.06.1997 and 738529 of ₹4,24,056.60 on 12.05.1997. The aforementioned suit was decreed vide judgment and decree dated 15.03.2012 whereby mandatory injunction was issued in favour of the plaintiff against the defendants. As per the aforementioned decree, execution application was filed claiming an amount of ₹9,15,803/- with regard to one FDR and another ₹3,93,795/- but the same has been rejected by holding that the decree holder is entitled to interest @6% per annum whereas the contents of the FDR which provide for a particular amount of interest has been ignored. In this regard, he has drawn attention of the Court to the finding rendered in paragraph 17 at page 42 of the paper book wherein it has been observed that the plaintiff is entitled to interest as per Rules and the Rules have to be interpreted as per the terms and conditions drawn at the back side of the FDR.

He further submitted that the aforementioned policies were renewed and therefore, the calculation was done in that perspective.

I have heard learned counsel for the petitioner and appraised the paper book. This Court before dealing with the arguments of Mr. Sarju Puri, called upon him to apprise from the judgment regarding renewal of the FDR. On going through the finding rendered in paras 16 and 17, which reads as under, it has been proved on record that signature of the plaintiff did not appear on the same:-

> *"16. I have heard the arguments advanced by learned counsel for the parties, if withdrawal form is seen, which is Ex.D7, the signature of the plaintiff does not appear on the same, rather, the name of Ram Lal defendant No.2 only appears. No parentage of Ram Lal is given. Ex.D6 is the application moved by defendant No.2 to the defendant No.1 Bank for payment before maturity and it does not bear the signature of the plaintiff nor the plaintiff consented to his premature payment of the FDR by defendant No.2.*
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> *17. If cross-examination of the officer of the defendant No.1 bank is seen, he has clearly admitted that if the FDR is to be encashed before maturity, the signatures of all the parties are*

to be taken but in this case, the signatures of the plaintiff is not there and the payment was made before maturity. In view of the admission of the official of the defendant bank that the payment has been made to the defendant No.2 before maturity but the defendant No.2 has already taken the divorce from the plaintiff as alleged by the plaintiff. As such, the defendant No.1 bank is liable to return the amount of FDR i.e. Rs.4,24,056.60 ps. and the plaintiff is also entitled to sum of Rs.53,905.50 ps as per rules of the defendant bank along with interest to the plaintiff. If the ratio of the judgment referred by learned counel for the plaintiff i.e. Vol.XCI 1987(1) Punjab Law Reporter, page No.193 in case titled as Adrash Rattan Vs. State Bank of India, Punjab and Haryana High Court is seen, the plaintiff can recover this amount from defendant No.1. Hence, I decide this issue in favour of the plaintiff and against the defendant."

The calculation submitted by the petitioner was on account of his own volition and not as per the Rules. The admission of the defendant i.e. the official of the Bank would not make the case of the petitioner/plaintiff stronger in view of the decree sheet, which reads as under:-

"This suit coming on this 15th day of March, 2012 for final disposal before me (Sh. K.S. Cheema, Addl. Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar), in the presence of Sh. R.C. Sareen, Adv for plaintiff. Sh. Gaurav Sareen, Adv. for defendant No.1. Defendant No.2 ex parte.

It is ordered that the sui of the plaintiff is decreed with no order to costs that she is entitled to mandatory injunction as prayed for."

In my view, it was incumbent upon the petitioner-plaintiff to submit the calculation as per the decree and not as per her own volition. Nothing prevented her to call upon the Bank to give details of calculation before proceeding with execution petition. Thus, the order granting simple interest @6% per annum in particular facts and circumstances of the case does not call for interference.

No ground for interference is made out. While upholding the order under challenge, the revision petition is dismissed with the aforementioned observations.

(AMIT RAWAL)
JUDGE

January 30, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No