

CR No.3879 of 2015

{1}

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

CR No.3879 of 2015

Date of decision:21.03.2018

Harpreet Singh deceased through his father ... Petitioner

Vs.

The Faridkot Central Cooperative Bank, Machaki Kalan,
Faridkot ... Respondent

CR No.4025 of 2015

Yashpreet Singh ... Petitioner

Vs.

The Faridkot Central Cooperative Bank, Machaki Kalan,
Faridkot ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Param Preet Singh Brar, Advocate
for the petitioner.

Mr. V.S.Dhindsa, Advocate, for
Mr. R.S.Pandher, Advocate
for the respondent.

AMIT RAWAL J.

This order of mine shall dispose of two revision petitions
bearing Nos.3879 and 4025 of 2015.

The petitioner is in revision petition against the order dated
10.04.2015 passed by the Additional District Judge, Faridkot, whereby, well
reasoned order dated 22.11.2010 passed by the trial Court, had been set
aside.

For adjudication of the lis, it would be apt to give preface of the

matter.

In C.R.No.3879 of 2015, the respondent – The Faridkot Central Cooperative Bank instituted the application before the Lok Adalat for recovery of ₹6,04,900/- from the petitioner by way of compromise. In the said application, petitioner was appeared and compromise was arrived at between the parties, whereby the petitioner was directed to pay a sum of ₹3,70,420/- with interest @ 10% on the principal amount till realization on the following terms and conditions:-

“1. 25% of the award amount is to be deposited within a period of 30 days from the date of this award.

2. On or before dated....., the remaining amount is to be deposited on the below mentioned dates:-

i) Dated : 20.1.2009 Amount : Rs.92605/-

ii) Dated : 20.4.2009 Amount : Rs.92605/-

iii) Dated : 20.7.2009 Amount : Rs.92605/-

iv) Dated : 20.10.2009 Amount : Rs.92605/-

If defendant returns the amount as per the above terms and conditions, then award would be considered as implemented. If defendant does not abide by the terms and conditions of this award, then plaintiff will have right as per this award to recover the actual amount alongwith interest according to law.”

Whereas, in C.R.No.4025 of 2015, the respondent – The Faridkot Central Cooperative Bank instituted the application before the Lok

Adalat for recovery of ₹5,46,600/- from the petitioner by way of compromise. In the said application, on appearance of petitioner, a compromise was arrived at between the parties, whereby the petitioner was directed to pay a sum of ₹3,45,300/- with interest @ 10% on the principal amount till realization on the following terms and conditions:-

“1. 25% of the award amount is to be deposited within a period of 30 days from the date of this award.

2. On or before dated....., the remaining amount is to be deposited on the below mentioned dates:-

i) Dated : 20.1.2009 Amount : Rs.86325/-

ii) Dated : 20.4.2009 Amount : Rs.86325/-

iii) Dated : 20.7.2009 Amount : Rs.86325/-

iv) Dated : 20.10.2009 Amount : Rs.86325/-

If defendant returns the amount as per the above terms and conditions, then award would be considered as implemented. If defendant does not abide by the terms and conditions of this award, then plaintiff will have right as per this award to recover the actual amount alongwith interest according to law.

It was also made clear that in case the petitioner-defendant did not abide by the terms and conditions, the Bank would be at liberty to recover the amount alongwith interest in accordance with law.

Learned counsel appearing on behalf of the petitioner submitted that petitioner had been paying the installments but there was default of 1½ installments and amount of ₹1,39,000/- was due. Instead of seeking

recovery of the amount by filing an execution application as the order according to compromise had a trapping of decree, preferred an appeal before the Additional District Judge, i.e. Misc.Civil Appeal No.266 of 2013 which has erroneously been accepted, whereby award dated 22.11.2010 passed by Lok Adalat was set aside. The appeal before the Additional District Judge was not maintainable as right was granted to the Bank to seek recovery of the amount in case of default in accordance with law, i.e., to file execution application. Even otherwise, the petitioner is ready to pay the entire amount subject to any terms and conditions this Court deems it appropriate as his intention was bonafide, for, a sum of ₹92,605/- was deposited on 16.01.2009 and another same amount on 3.6.2009 and ₹45,000/- on 23.06.2009. Even the appeal was also not maintainable as per the provisions of Order 23 Rule 3-A CPC, whereby, remedy, if any, for the Bank was to move the same very Court for seeking execution.

Learned counsel for the respondent submitted that Bank had already given concession of almost ₹2.5 lacs against the claim of ₹6,04,900/-. Since the debtor failed to pay the amount, an occasion arose for recalling of the order and thus, urged this Court for dismissal of the petition.

I have heard the learned counsel for the parties, appraised the paper book.

During the course of hearing, learned counsel representing the petitioner submitted that his client is willing to clear entire outstanding amount,i.e, ₹1,39,000/- subject to any terms and conditions this Court deems fit. I am of the view that the Lower Appellate Court ought to have

adopted the pragmatic and reasonable approach while entertaining the appeal, though the appeal was not maintainable as the liberty was granted to the Bank to seek execution of the outstanding amount in accordance with law.

Be that as it may, once the offer has been given, I deem it appropriate to dispose of the petition by modifying the order under challenge and granting two months time to the petitioner (in CR No.3879 of 2015) to clear the outstanding amount of ₹1,39,000/- alongwith interest @ 9% per annum from the date of default till realization, whereas, in CR No.4025 of 2015, the petitioner is directed to clear the outstanding amount alongwith interest @ 9% per annum from the date of default till realization. In case, the aforementioned amount is not paid, the Bank shall be entitled to seek execution of the amount, in accordance with law.

Revision petitions stand disposed of.

(AMIT RAWAL)
JUDGE

March 21, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No