

**116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.3621 of 2018 (O&M)
Date of decision : May 28, 2018**

Ved Prakash

..... Petitioner

Versus

Ram Chander

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Saurabh Bajaj, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 05.01.2018 (Annexure P-7) vide which, learned Addl. District Judge, Karnal, modified the judgment and decree dated 13.09.2016 passed in an appeal.

The trial Court vide judgment and decree dated 23.08.2012 decreed a suit for specific performance of the agreement to sell dated 10.07.2006. In the appeal, the present petitioner-defendant was directed to deposit ₹3,00,000/- and the appeal was entertained. The appeal was ultimately decided on 13.09.2016, in which following order was passed, modifying the judgment and decree of the trial Court:

“----- Accordingly, the appeal of the appellant-defendant is hereby partly allowed with no order as to cost and the impugned judgment and decree dated 23.8.2012 are hereby modified by converting the same into money decree to the extent that the plaintiff is not entitled for specific performance of the contract, rather, he is entitled to receive a sum

of Rs.6,00,000/- from the defendant alongwith interest @ 12% per annum from 29.5.2008 upto the date of filing of suit i.e. 16.5.2009 and thereafter @ 6% from the date of filing of suit till 'actual realization on the amount of Rs.6,00,000/-'. It has been further submitted by learned counsel for the appellant that vide order dated 10.10.2012 passed by my learned predecessor, a sum of Rs.3,00,000/- had been deposited by the defendant in the Treasury vide CCD No.8443 dated 23.10.2012, therefore, the plaintiff shall be entitled to receive that amount directly against the total arrears of decretal amount and remaining amount shall be paid by the defendant alongwith interest mentioned above within three months from the date of this decree. The parties shall bear their costs. Decree sheet be drawn accordingly. -----”.

It appears that at the time of execution, a dispute arose about ₹3,00,000/-, which were deposited before the trial Court on 23.10.2012, on the point whether the interest on ₹3,00,000/- will be ceased from 23.10.2012 or when it is actually paid to the plaintiff-decree holder.

Learned Addl. District Judge, Karnal held that there is ambiguity in the decree and that the plaintiff is entitled to recovery of interest on the entire amount of ₹6,00,000/-. The relevant extract from the impugned order is reproduced as under:

“6. After having given a thoughtful consideration over the rival submissions of both sided as well as on perusal of judgment and decree dated 13.09.2016, it is clarified that the applicant/plaintiff was held entitled to receive a sum of ₹6 lakhs from defendant alongwith interest

@ 12% per annum w.e.f. 29.05.2008 till the date of filing of civil suit i.e. 16.05.2009 and thereafter, he was also held entitled to receive interest @ 6% per annum from the date of filing of suit till actual realization and this 6% per annum from the date of filing of suit till actual realization and this 6% interest has to be calculated on the amount of ₹6 lakhs w.e.f. 17.05.2009, even otherwise this fact has already been mentioned in the relief clause, mentioned above, and there is no ambiguity in the judgment, rather the same indicates that the applicant-plaintiff has been held entitled for recovering interest on entire amount of ₹6 lakhs i.e. either the interest has to be calculated @ 12% per annum or @ 6% per annum, hence, it is clarified as stated above and this application is hereby disposed off. Papers be tagged with the main case file and consigned to record room after due compliance.”

Learned counsel for the petitioner has argued that the decree was till the actual realization of the amount of ₹6,00,000/-. Since, ₹3,00,000/- were released on 23.10.2012, therefore, the interest on ₹3,00,000/- will be ceased from the said date, in terms of the said decree.

I am of the view that there is no ambiguity in the impugned decree. In the decree, it is clear that the plaintiff shall be entitled to receive a sum of ₹3,00,000/- deposited in the Treasury, vide CCD No.8443, dated 23.10.2012 against 'the total arrears of decretal amount and remaining amount shall be paid by the defendant along with interest mentioned above within three months from the date of decree'. It simply means that ₹3,00,000/- are to be adjusted in the total decretal amount after calculating

the interest, which further means that the interest on ₹3,00,000/- will be ceased only when it is paid to the plaintiff.

It being so, there is no illegality or infirmity in the impugned order. As such, the present revision petition is dismissed.

May 28, 2018

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

No

(KULDIP SINGH)
JUDGE