

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

Civil Revision No.3837 of 2018 (O&M)

Date of decision: May 31, 2018

M/s Ajay Kumar & Co. and another

...Petitioners

Versus

Gurpreet Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sukhjit Singh, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this revision petition against respondent Gurpreet Kaur and proforma respondent under Article 227 of the Constitution of India for setting aside the order dated 30.04.2018 passed by learned Civil Judge (Junior Division), Jagraon, vide which the application filed by petitioner-judgment debtor for recalling the order dated 10.01.2018 vide which the respondents (JDs) were directed to pay ₹95,550/- as interest on the decretal amount passed in judgment and decree dated 16.11.2010 and fresh warrants of sale against the attached property of petitioners/JDs were issued, was dismissed.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that plaintiff-respondent Gurpreet Kaur

filed a suit against M/s Ajay Kumar and Ajay Kumar through LR's for

recovery of ₹3,36,250/-. Learned Addl. Civil Judge (Senior Division), Jagraon, vide judgment and decree dated 16.11.2010, decreed the suit with costs, for the recovery of ₹2,50,000/- along with interest at the rate of 9% per annum from the date of execution of receipt dated 24.10.2010 till the date of decree and further 6% per annum as future interest from that date till realization. During the pendency of the execution proceedings, an application was moved by JDs for recalling order dated 10.01.2008 passed by the Court, whereby fresh warrants of sale with regard to attached property of JDs against amount of ₹95,550/- i.e. balance amount after deposit of ₹4,94,950/- by JDs, have been issued and for dismissal of execution. In the application it has been submitted that total amount of ₹4,94,950/- has already been deposited by the JDs and as such, present execution has been fully satisfied. JDs are not liable to pay said amount as the amount which has been claimed in the execution petition, has already been paid by JDs. Decree holder opposed the application and stated that as per decree dated 16.11.2010, JDs are liable to pay the amount of future interest till the realization of decretal amount. Said interest amount remains unpaid and the application has been filed by the JDs just to delay the proceedings of execution.

Learned Civil Judge (Jr. Divn.), Jagraon, vide order dated 30.04.2018, dismissed the application.

It is admitted fact between the parties that ₹4,94,950/- has been deposited by the JDs. In the execution application, calculation is filed by decree holder pertaining to future interest, which comes to ₹95,550/-. The JDs have not disputed the calculation submitted by the decree holder. The

only objection raised before the Executing Court is that said amount has not

been claimed in the execution application filed by the decree holder. Learned Court below in the decree also awarded 6% future interest per annum from the date of decree till actual realization, therefore, decree cannot be held as fully satisfied for non-payment of interest and execution cannot be dismissed. The amount of ₹95,550/- is for the future interest as 6% per annum, which calculation is not disputed.

Keeping in view above discussion, I find that no illegality has been committed by learned Court below while passing the impugned order. The impugned order dated 30.04.2018 passed by learned Civil Judge (Jr. Divn.), Jagraon, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

As the main case is decided, therefore, civil misc. application, if any, also stands disposed of.

May 31, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No