

Civil Revision No.6565 of 2015 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6565 of 2015 (O&M)

Date of Decision: January 11, 2018

L&T Finance Limited

...Petitioner

Versus

Karamvir Malik & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Puneet Sharma, Advocate,
for the petitioner.

Mr.Ajit Malik, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner-decree holder is in revision against the impugned order dated 19.1.2015 (Annexure P-12), whereby the execution application seeking execution of the award dated 26.10.2010 (Annexure P-1) for recovery of ₹2,95,097/- along with interest at the rate of 24% per annum, has been dismissed.

Mr.Puneet Sharma, learned counsel for the petitioner submits that the aforementioned execution application has been dismissed by accepting the objections of the judgment debtors by taking into consideration the No Dues Certificate Ex.O1, issued by the employer of the petitioner, i.e., Mohit Kamal, who had taken a sum of ₹2,08,000/- in the name of the company as full and final settlement of the award, whereas the aforementioned person was not authorised to accept the money. In this regard, a complaint (Annexure P-15) was made against him as well as co-

Civil Revision No.6565 of 2015 (O&M)

accused resulting into registration of FIR No.0027 dated 9.1.2016 (Annexure P-16) and the accused persons are Rajeev Sharma and Mohit Kamal, therefore, the matter requires to be re-addressed before the Executing Court. Even otherwise, the services of the aforementioned employee have already been terminated vide termination order dated 22.12.2015 (Annexure P-17).

Mr.Ajit Malik, learned counsel appearing on behalf of respondent No.1 submits that the registration of the aforementioned FIR is an afterthought and, therefore, the same cannot be taken into consideration. In view of such situation, the order of the Executing Court dismissing the execution application by accepting the objections is correct. The 'No Objection Certificate' is legal and justified and, thus, urges this Court for dismissal of the revision petition.

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

The submission of the complaint is prior to the passing of the impugned order, though the FIR concededly was registered on 9.1.2016, i.e., after the dismissal of the execution application. Since the employee, who had allegedly issued the No Dues Certificate (Ex.O1) accepting the amount of ₹2,08,000/- from the judgment-debtors deviated from the terms and conditions of the award entailing the interest @ 24%, in my view, the matter requires to be re-visited by the Executing Court as these facts have to be examined afresh.

In view of the aforementioned observations of mine, the impugned order is set-aside. The execution application is restored to its original number. The matter is remitted to the Executing Court with a

Civil Revision No.6565 of 2015 (O&M)

direction to decide the same afresh. Liberty is granted to the parties to bring on record subsequent material for the purpose of adjudication of the execution application.

The parties, through their counsel, are directed to appear before the Executing Court on 1.2.2018.

Revision petition stands disposed of.

January 11, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No