

**CR-7490-2018 (O&M) and
other connected matter**

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

Date of decision : 11.12.2018

1. CR-7490-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Satpal Singh

... Respondent

2. CR-7492-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Sewa Ram

... Respondent

3. CR-7493-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Dinesh Yadav

... Respondent

4. CR-7495-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Vinod Kashyap

... Respondent

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CR-7500-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Narender Singh

... Respondent

6.

CR-8339-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Ram Karan

... Respondent

7.

CR-8340-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Phool Chand

... Respondent

8.

CR-8341-2018 (O&M)

Voith Paper Fabrics India Ltd.

... Petitioner

Versus

Jitender Bhardwaj

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pawan Kumar Mutneja, Advocate
for the petitioner(s).

AMIT RAWAL, J.

This order of mine shall dispose of eight revision petitions

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bearing CR No.7490 of 2018 titled as “Voith Paper Fabrics India Ltd. V/s Satpal Singh”, CR-7492-2018 titled as “Voith Paper Fabrics India Ltd. V/s Sewa Ram”, CR-7493-2018 titled as “Voith Paper Fabrics India Ltd. V/s Dinesh Yadav”, CR-7495-2018 titled as “Voith Paper Fabrics India Ltd. V/s Vinod Kashyap”, CR-7500-2018 titled as “Voith Paper Fabrics India Ltd. V/s Narender Singh”, CR-8339-2018 titled as “Voith Paper Fabrics India Ltd. V/s Ram Karan”, CR-8340-2018 titled as “Voith Paper Fabrics India Ltd. V/s Phool Chand” and CR-8341-2018 “Voith Paper Fabrics India Ltd. V/s Jitender Bhardwaj”, filed against the impugned order rejecting the objections filed by the petitioner(s) qua execution of the award of Labour Court, whereby the workmen had been ordered to be reinstated along with back-wages.

Concededly, the aforesaid award is under challenge in various writ petitions bearing No. CWP Nos.13345, 13349, 13351, 13353, 13355, 13357 to 13363, 17741, 17456 and 18019 of 2013, before this Court, wherein, there is interim stay qua prosecution.

The workmen filed an execution application by invoking the provisions of Order 21 Rule 1 of CPC, in view of amendment caused in Section 11 of the Industrial Dispute Act, 1947 (in short 'the 1947 Act') by introduction of Sub-sections 9 and 10, w.e.f. 15.09.2010. The aforementioned provisions empowered the Civil Court to implement the Award of the Labour Court as it was a decree of Civil Court.

The petitioner-Management filed the objections to the execution application (Annexure P-3), which was not in consonance with either of the provisions of Section 33C(2) of 1947 Act or sub-clause (g) of

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Rule 11 of Order 21 of CPC. The objections have been dismissed, thus, the revision petitions.

Learned counsel appearing on behalf of the petitioner submitted that in the absence of determination of the specific amount due as per the provisions of Order 21 Rule 11 of CPC, the execution application was not maintainable as the Award has not attained finality. Even after the incorporation of sub-sections 9 and 10 of Section 11 of the 1947 Act, the workmen is required to comply with the provisions of Section 33(c)(2) of 1947 Act.

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

It would be apt to reproduce the contents of the execution application, which reads thus:-

"That award dated 19.12.2012 in Ref. No.R/5/07 passed by Hon'ble Industrial-cum-Labour Court II, Faridabad and has been pleased to reinstate the workman with full back wages with continuity of service and other consequential benefits along with cost of ₹2,000/-. Despite that award the management has not reinstated the workman and complied with the award dated 19.12.2012. According to Section 11(9) of the Industrial Dispute Act and this Hon'ble Court has jurisdiction to execute the aforesaid award.

It is therefore prayed that the award may kindly be executed by attachment of the property of Judgment Debtor/respondent and sale proceeds may kindly be released to the applicant/Decree holder. In case the respondent/judgment debtor fails to comply with the award the Managing Director/Directors may please be detained in Civil Prison till the execution of the award."

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Concededly the legislature has caused the amendment in Section 11 of 1947 Act, w.e.f. 15.09.2010. For the sake of brevity, the sub-Section 9 and 10 of Section 11 of the 1947 Act reads as under:-

“Sub-Section 9 and 10 of Section 11 of the 1947 Act

(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure , 1908.

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”

While dismissing the objections, the Labour Court vide impugned order had directed the decree holder to comply with the provisions of Order 21 Rule 11 (2) of CPC. For the sake of brevity, the relevant portion of the order dated 25.09.2018 reads as under:-

"The purport of Order 21 Rule 11 (2) CPC shows that the use of the word 'shall' imputes mandatory character to the said provision. Further, providing the said details would facilitate the execution proceedings. In view thereof, the DH is directed to comply with the requirements of Order 21 of Rule 11(2) CPC within a period of 15 days."

On juxtaposition of the contents of execution application and the order dated 25.09.2018, the grievance of the petitioner stands addressed as the workmen have been directed to comply with the statutory provisions of the Code of Civil Procedure in view of the fact that Award of the Labour

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Court had the trapping of the Civil Court decree.

Keeping in view the aforementioned facts, no ground is made out for interference, much less, impugned order cannot be said to be suffered from illegality or perversity.

The revisions petitions are dismissed.

11.12.2018
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

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Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**