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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8106-2016

Date of decision : 23.04.2018

Management Board of Ansal Institute of Technology and
another

... Petitioner(s)

Versus

Sunita Tanwar and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aashish Chopra, Advocate
for the petitioners.

Mr. R.K. Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the orders dated 02.11.2016 (Annexure P-23) and 30.09.2016 (Annexure P-20) passed by the Additional District Judge, Gurgaon in Execution Petition filed by respondent No.1 seeking execution of the order dated 14.08.2012 (Annexure P-6).

Learned counsel for the petitioners submitted that respondent No.1 was on the rolls of the Management of the petitioners-erstwhile Institute, as per appointment dated 23.05.2007 (Annexure P-1). Her services were terminated vide order dated 04.05.2010 (Annexure P-3). A dispute arose between the parties and ultimately, the matter was referred to the authorities. The claim vide order dated 14.08.2012 (Annexure P-6) was

adjudicated and termination order was set aside. The respondent No.1 was ordered to be reinstated with all consequential benefits from the date of filing of the petition i.e. w.e.f. 20.05.2011. The aforementioned order was assailed before this Court vide CWP No.20900 of 2012, which was dismissed, vide order dated 26.11.2013, whereby the order, impugned, dated 14.08.2012 was upheld. Thereafter, an appeal bearing LPA No.823 of 2014 was also preferred, but the same was dismissed, vide order dated 05.08.2014 (Annexure P-9) by giving the following observations:-

“We deem it just and appropriate to observe that in case respondent No.2 would stake any claim vis-a-vis the arrears of salary/wages for the period she has been held entitled to, the appellant would be at liberty to seek her response over this aspect after providing her the material on the basis of which it is purportedly claimed that she has been gainfully employed since 02.08.2010 onwards. And take an appropriate decision in accordance with law. Needless to assert without any delay.”

Respondent No.1 filed an execution application claiming the arrears amounting to ₹3 Crores. In the aforementioned execution application, statement of accounts were filed. The trial Court, vide order dated 30.09.2016, as an interim measure, directed the judgment debtor to make the payment of ₹1.50 Crores to the decree-holder pending the correctness of the calculations. Thereafter, an objection petition was filed to the calculations filed by the decree-holder dated 02.11.2016 (Annexure P-22). The aforementioned objection petition is still pending for adjudication, but despite that the trial Court entertained the application under Order 21 Rule 37 CPC and ordered for arrest of concerned Officer of the petitioners-

Institute by sending a notice to the office of the Commissioner of Police and on even date, warrant of attachment had also been passed. This Court while issuing notice of motion had stayed the warrant of attachment vide order dated 01.12.2016.

He further submitted that since there was a dispute with regard to the calculations as the calculations pertained to 07.06.2007, dehors of the fact that the order dated 14.08.2012 setting aside the termination order directing the reinstatement with consequential benefits from the date of the filing of the petition i.e. 20.05.2011 had been upheld. The Court below could not have passed the order in such undue haste, without any regard to order of Intra-Court appeal, whereby the Institute was given a liberty to seek a response from respondent No.1 after proving the material with regard to her gainful employment, during the period, she remained out of service, thus, urges this Court for setting aside the impugned orders, under challenge.

Mr. R.K. Malik, learned Senior Counsel assisted by Mr. Kuldeep Sheoran, learned counsel appearing on behalf of respondent No.1 submitted that respondent No.1-decree holder was made to run from pillar to post, for, deprived of all the consequential benefits, even not a single penny has been paid. The calculations were as per order dated 14.08.2012. The petitioners are unnecessarily dragging the issue by filing the objections, for, they are nursing the rancour and grudge against her client, thus, urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties and appraised the paper book. The decision dated 14.08.2012, dismissal of the writ petition as

well as the LPA with a rider, are not in dispute. The only point to be seen and pondered upon by the Executing Court, was/is whether the claim in the execution application was strictly in the letter and spirit of the order dated 14.08.2012 (Annexure P-6) or otherwise. Both the sides have been staking the claim strictly as per the order, aforementioned. Despite the pendency of the objections to the calculations, the Court below could not have passed the order of attachment or ordered for arrest. The aforementioned impugned orders, in my view, have been passed in undue haste. At least one opportunity should have been given to both the parties to address or exchange the settlement of accounts for arriving at a some settlement strictly as per the order dated 14.08.2012 as well as findings of the Intra-Court Appeal, as extracted above, for, respondent No.1 in response to the request made by the Management or own volition was required to give an affidavit with regard to her gainful employment. In my view, the impugned orders, under challenge, suffers from the illegality and do not stand on the touchstone of reasonability and legality, thus, the same are hereby set aside. The present revision petition is disposed with the following directions:-

- (i) The Executing Court is directed to decide the execution application by taking into consideration the order dated 05.08.2014 passed by the LPA Bench of this Court.
- (ii) Both the parties will submit their fresh calculations.
- (iii) The Executing Court shall consider the objections of the petitioners with regard to the calculations, if any and shall decide the execution application with regard to the arrears strictly as per the order dated 14.08.2012 as well as the order dated

05.08.2014 (Annexure P-9) within a period of two months from
the date of the receipt of certified copy of this order.

23.04.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No