

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.7899 of 2014 (O&M)

Date of decision:14.11.2018

Om Parkash Mittal

... Petitioner

Vs.

Durga Devi (deceased) through LR's and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. P.S.Jammu, Advocate
for the petitioner.

AMIT RAWAL J.

The present revision petition is directed against the impugned orders dated 15.01.2014 and 17.9.2014, whereby, the objections to the execution of the judgment and decree and application to review the order dated 15.01.2014, have been dismissed.

Mr. P.S. Jammu, learned counsel appearing on behalf of the petitioner submitted that plaintiff/decreed-holders instituted the suit for rendition of account of their 5/6th share in the income realized by the judgment debtor from Jubilee Hotel.

The parties had arrived at an oral agreement and in lieu thereof, preliminary decree was passed on 19.02.1981 and the final decree on 31.03.2005 (Annexure P-1). As per the final decree, decreed-holders were entitled to 4/5th share of amount of ₹64,151.60 paise from the defendant/judgment-debtor who was having 1/5th share and JD was directed

to make the payment from the date of report of Local Commissioner alongwith interest @ 9% per annum within a period of three months from the date of order.

The aforementioned final decree was assailed in appeal which was dismissed, vide order dated 01.12.2009. The objections were filed notifying the payments of ₹51,322/- on 15.02.2014 and ₹33,000/- on 14.11.2014 which was not noticed by the Executing Court. In this regard, review application was filed but the same has erroneously been dismissed with a further direction to make the payment of interest as JD did not comply with the preliminary decree and more than three years had elapsed, therefore, it would entail the interest @ 9% per annum.

It was further contended that review Court did not have the power to issue further direction, therefore, the impugned order dated 17.09.2014 is liable to be set aside.

I am afraid the aforementioned arguments are not sustainable in the eyes of law, for, concededly, there had been default in the payment of amount as indicated above. The aforementioned amount also entailed the interest @ 9%. If at all, the petitioner-JD had deposited the amount alongwith interest, was always at liberty to give calculations to the satisfaction of the decree-holders as well as of the Executing Court.

I cannot remain unmindful of the fact that while dismissing the review application, it was not a different Court but the Executing Court where the execution application was stated to be pending and therefore, the

order of complying with the judgment and decree while issuing directions to the JD to pay the interest @ 9% per annum was in that regard.

As an upshot of my findings, I do not find any illegality and perversity in the impugned orders. Resultantly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 14, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No