

**JIWAN SINGH VIRK
VS
M/S AMARJIT MULTI WORKS AND ANR**

Present: None for the petitioner.

Mr. A.D.S. Jattana, Advocate for respondent No.1.

Office has put up this case for certain clarifications.

Revision petition filed by defendant No.1 was allowed by this Court on 18.09.2012 subject to the payment of costs of ₹6,00,000/-. Defendant No.1 filed Special Leave to Appeal before Hon'ble the Supreme Court. Hon'ble the Supreme Court while issuing notice vide order dated 01.02.2013 directed the petitioner to deposit ₹1,00,000/- with the Registry of this Court. The relevant part of the order dated 01.02.2013 passed by Hon'ble the Supreme Court is extracted as under:-

“Subject to the deposit of Rs.1,00,000/- (rupees one lakh only) by the petitioner within four weeks from today in the Registry of the High Court, which shall be payable to the respondents irrespective of the result of the special leave petition, we deem it proper to issue notice to the respondents, returnable on 05.04.2013, to show cause as to why leave may not be granted, the impugned order may not be modified and the cost awarded by the High Court may not be adequately reduced. Dasti, in addition, is permitted.”

The amount of ₹1,00,000/- has been deposited. It is further not in dispute that ultimately the Special Leave Petition was ordered to be dismissed vide order dated 05.01.2015. Now the dispute is to whom ₹1,00,000/- which has been deposited in this Court, is to be paid. Hon'ble the Supreme Court while passing the interim order on 01.02.2013 has used

the word respondents whereas the plaintiff claims that the amount awarded is payable to him.

In the considered opinion of this Court, the contention of plaintiff-respondent No.1 is correct. Single plaintiff had filed a suit for recovery of the amount against two defendants. Defendant No.1 was proceeded ex parte. Application for setting aside ex parte was dismissed by the trial Court. This Court vide order dated 18.09.2012 set aside the ex parte proceedings subject to the payment of costs of ₹6,00,000/- as noticed above. It was specifically directed that the costs shall be payable to respondent No.1-plaintiff. Defendant No.2 who was only a proforma respondent in the revision petition is not entitled to the costs.

In view thereof, Office is requested to release the amount of ₹1,00,000/- in favour of the plaintiff through crossed cheque subject to proper verification with regard to the identity of the plaintiff.

In view of the above, the application is disposed of.

26.04.2018

Pawan

(ANIL KSHETARPAL)
JUDGE