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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.1933 of 2013 (O&M)
Date of Decision:22.01.2019

Ram Niwas Aggarwal & Anr.
......Petitioners

Vs

Life Insurance Corp of India
....Respondent

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Munish Kumar Garg, Advocate
for the petitioners.

Mr. Saurav Verma, Advocate &
Ms. Vrinda Gupta, Advocate for
Mr. Prateek Mahajan, Advocate
for the respondent.

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RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the orders dated 18.12.2012 and 05.03.2013 passed by the Civil Judge (Sr. Divn.) Hisar vide which the objections filed by the petitioners were dismissed and warrants of auction were issued.

[2]. Petitioner No.1 had availed a loan facility from the respondent-Corporation for construction of house on plot No.55 in Model Town, Hansi District Hisar under the 'Own Your House Scheme' floated by the respondent-Corporation. The loan of

Rs.1,20,000/- was sanctioned on 17.03.1990 against the policies of the petitioners. Petitioners after accepting all terms and conditions executed various documents in favour of respondent-Corporation including mortgage deed qua plot No.55, Model Town, Hansi.

[3]. Petitioners claimed that they have deposited Rs.13,621/- and Rs.10,000/- on 03.01.1991 and Rs.17,000/- in the year 1993 and in this way total amount of Rs.40,620/- was deposited. Thereafter policy No.023206262 was matured on 03.01.2001 for a sum of Rs.46,562/-. Second policy No.170236658 had matured on 01.04.2004 for a sum of Rs.8008/- and third policy No.170346124 had matured on 01.04.2004 for a sum of Rs.23,357/-. In this way, total amount of Rs.1,18,548/- was deposited by the petitioners with the respondent-Corporation.

[4]. Respondent-Corporation filed a suit and the same was *ex parte* decreed on 27.04.2002 against the petitioners by the trial Court. The application was filed by the petitioners for setting aside the ex parte judgment and decree, but the same was dismissed in default. Thereafter, decree holders/respondents filed execution and the said execution was transferred from District Court, Karnal to District Court, Hisar. An application was filed for setting aside the ex parte decree as well as objections

in the executing petition. The objections were dismissed by the executing Court.

[5]. The effort made by the petitioners for settlement of loan did not fructify and the executing Court proceeded to issue warrants of attachment.

[6]. Earlier a CR No.3369 of 2009 titled "*Ram Niwas Aggarwal etc. vs. Life Insurance Corporation*" was filed in the High Court against the order dated 15.04.2009 passed by the executing Court vide which objections of the petitioners were dismissed. The said revision petition was dismissed vide order dated 24.02.2011 by passing the following order:-

> ***"CORAM: HON'BLE MR. JUSTICE A.N.JINDAL***
>
> *Present: Mr.Ashish Gupta Advocate*
> *for the petitioners.*
>
> *Mr.V.K.Kaushal Advocate for*
> *Mr.B.R.Mahajan Advocate*
> *for the respondents.*
>
> ***A.N.Jindal, J.(Oral)***
>
> *Assailed in this petition, is the order dated 15.04.2009 passed by Civil Judge (Senior Division) Hisar, dismissing the objection petition preferred by the petitioners.*
>
> *Having perused the impugned order, the same does not suffer from any illegality warranting interference by this Court.*
>
> *No ground is made out to interfere in the impugned order.*
>
> *Dismissed.*
>
> *At this stage, learned counsel for the petitioners requests that he wants to pay the entire outstanding amount*

which is due against them in this regard. Petitioners are directed to appear before the trial court to tender the due amount along with all the calculations.

(A. N. JINDAL)
February 24, 2011. *Judge*
Seema-II"

[7]. Perusal of the aforesaid order would show that the petitioners showed their intentions to pay the entire outstanding amount and they were directed to appear along with their calculations.

[8]. In the present revision petition, learned counsel for the petitioners contended that the amount of policies should have been adjusted immediately on their maturity, but the same were adjusted at a later stage.

[9]. The contention of learned counsel for the petitioners was refuted by learned counsel for the respondent on the premise that though the amount was adjusted later on, but the petitioners were allowed the same rate of interest as charged from them.

[10]. In view of aforesaid arguments of learned counsel for the parties, vide order dated 14.08.2015 respondent/ Corporation was directed to produce two sets of calculations one after adjusting the amount when the policy became due and the other calculations when it was actually adjusted in order to see the difference in the due amount as alleged by the petitioners.

[11]. In pursuance of the aforesaid order, respondent-Corporation produced detailed calculations and the petitioners also filed their calculations.

[12]. This Court vide order dated 17.09.2018 found that the parties are at some variance in respect of calculations made on the basis of deductions qua policy amount. The first policy was matured on 03.01.2001. As per calculation of the decree holder an amount of Rs.46,562.50 paisa was deducted from total amount of Rs.3,97,433.60 paisa. Thereafter calculations were made upto the date of maturity of second policy on 08.04.2004 wherein an amount of Rs.8008/- was deducted from total amount of Rs.6,08,801.60 paisa. Third policy was matured on 28.04.2004 and an amount of Rs.23,357/- was deducted from the amount of Rs.6,06,465.10 paisa.

[13]. In the light of aforesaid factual position as detailed in the calculations submitted by the respondent-Corporation along with CM No.1475-CII of 2016, the petitioners were directed to file specific affidavit showing as to how the aforesaid calculations are illegal. Though the affidavit has been filed, but learned counsel for the petitioners could not show as to how the calculations submitted by the decree holder as Annexures R-2 and R-3 filed alongwith the aforesaid misc. application are wrong.

[14]. During the course of arguments, learned counsel for the petitioners could not point out any incriminating material to dislodge the calculations submitted by the respondent/decree holder. The arguments raised by learned counsel for the petitioners were in fact found to be based on the objections filed before the executing Court which were dismissed by the executing Court on 15.04.2009 and the revision petition i.e. CR No.3369 of 2009 against the said order was also dismissed by this Court on 24.02.2011. Reliance on grounds earlier taken before the executing Court cannot form basis to doubt the calculations submitted by the decree holder.

[15]. For the reasons recorded hereinabove, I find no error of jurisdiction in the impugned order passed by the executing Court. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

[16]. As a result of decision of this petition, all pending applications are also disposed of accordingly.

January 22, 2019 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No