202

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

CR-2091-2018
Date of decision: 22.10.2019

Punjab Water Supply and Sewerage Board ......Petitioner.

vs.

Surinder & Company ....Respondent.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate for the petitioner.

Mr. S.D. Sharma, Senior Advocate with
Mr. Ved Priya Malik and Mr. K.R. Sharma, Advocates
for respondent.

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Sanjay Kumar, J. (ORAL)

This revision under Article 227 of the Constitution of India arises out of the order dated 17.1.2018 (Annexure P-18) passed by the learned Civil Judge (Junior Division), Amritsar, in CIS Exe No. 7792/2009. By the said order, the Executing Court directed the judgment debtor therein, the petitioner in this revision, to pay a sum of Rs. 1,86,81,597/- failing which, warrants of attachment were to be issued in relation to its properties. The Executing Court further directed that interest from 10.7.2015 would also be liable to be paid till the full realization of the decretal amount.

By order dated 4.4.2018, this Court directed that the attachment of accounts and salaries of the employee of the petitioner, which had been effected as a result of the warrants of attachment, should remain stayed. This interim order was continued thereafter from time to time.

Heard learned counsel representing the petitioner as well as the respondent.

CIS Exe No. 7792/2009 was filed by the decree holder, the respondent herein, for execution of the Award dated 20.10.2017 (Annexure P-1) passed in relation to Agreement No. 52 of 1992 which pertained to construction of a RCC cum brick circular P.T. Sewer, apart from various types of S.W. Pipe Sewers and the works contingent thereto, at Pathankot under URP. It was the case of the decree holder, the respondent herein, that a sum of Rs. 1,32,05,743/- was still due and payable in terms of the Award, in relation to Claim No. 10 therein pertaining to refund of a sum of Rs. 5.00 lacs covered by a bank guarantee. The judgment debtor, the petitioner herein, filed two sets of objections, i.e., one on 11.5.2012 and the other on 6.12.2016, opposing this plea.

Perusal of the order under revision reflects that the Executing Court merely noted the claim of the decree holder, the respondent herein, to the effect that the sum total of interest payable on the amount of Rs. 5.00 lacs, covered by the bank guarantee, aggregated to Rs. 3,08,96,841/- as per the calculation statement filed by the decree holder, the respondent herein. As the judgment debtor, the petitioner herein, did not file any counter calculation memo, the Executing Court baldly accepted the figure cited by the decree holder, the respondent herein. Adjusting the amount already paid, the Executing Court came to the conclusion that a sum of Rs. 1,86,81,597/- still remained due and payable. Significantly, the petitioner herein, the judgment debtor, had raised various contentions in its objection petitions in relation to this interest component. However, the Executing Court did not even advert to the same, much less deal with them on merits. The order under revision is therefore clearly unsustainable on this ground. It was incumbent upon the Executing Court to take note of the objections raised by the petitioner herein, the judgment debtor, and deal with them on their own merits. As the Executing Court failed to do so, this Court is constrained to set aside the order under revision on this sole ground without venturing into the merits of the matter.

The revision petition is accordingly allowed, setting aside the order dated 17.1.2018 (Annexure P-18) passed by the learned Civil Judge (Junior Division), Amritsar, in CIS Exe No. 7792/2009. The matter is remitted to the file of the Executing Court for consideration afresh of all aspects after taking note of the objections filed by the petitioner, the judgment debtor therein. In the event the Executing Court deems it fit, additional information may also be called for from the parties and assistance may be taken from experts in relation to the calculation of the amount due, if any. The Executing Court shall endeavour to dispose of the matter expeditiously and in any event, not later than eight weeks from the date of receipt of a certified copy of this order.

No order as to costs.

(SANJAY KUMAR)
JUDGE

22.10.2019
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whether speaking/non speaking yes
whether reportable/non reportable yes/no