

In the High Court for the States of Punjab and Haryana at Chandigarh

CR-3576-2013 (O&M)

Date of Decision: March 12, 2019

Union of India and others

... Petitioners

Versus

Ved Kaur legal representative of deceased Bhupinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Dheeraj Jain, Advocate,
for the petitioners.

Mr. Akash Kundu, Advocate,
for Mr. Suraj Mal Kundu, Advocate,
for the respondent.

Amit Rawal, J. (Oral)

Present revision petition is directed against the impugned orders (Annexures P/8, P/9, P/11 and P/12) whereby while dismissing the application for staying the execution proceedings qua the property of judgment debtor and the objections filed by the judgment debtor, warrants of attachment of the vehicles of the Army Recruitment Office, Charkhi Dadri, District Bhiwani has been issued.

As per the contents of the revision petition, in Civil Suit No. 6 of 2002 titled “Bhupender Singh vs. Union of India and others”, judgment and decree dated 17.03.2005 in the following manner has been passed:-

“As a sequel to my above discussion, the suit of the plaintiff succeeds and is directed with costs only qua disability pension. It is held that plaintiff is entitled for disability pension w.e.f. the date when he was invalidated

out from the service i.e. 9.9.1992 along with arrears of pension with simple rate of interest @ 8% per annum. He is further entitled for regular disability pension during his life time. Decree sheet be prepared and file be consigned to the record room.”

Learned counsel, appearing on behalf of the petitioners submitted that the entire payment towards the disability pension had already been paid but despite that, the Executing Court issued the warrant of attachment, even the department was not party to the suit. If, at all, it is stated that amount is due and not paid, the decree holder is to establish on record the undertaking recorded in the order dated 30.05.2013.

Learned counsel, appearing on behalf of the respondent submitted that decree had attained finality and the objections were not maintainable. The department has failed to place on record any material regarding the payment of outstanding amount as per record of the decree.

I have heard learned counsel for the parties and perused the paper book.

The manner and mode in which the vehicle has been attached, cannot be sustainable. It is categorical case of the petitioner that entire dues have been paid. If, at all, there is a dispute, both the parties should have placed on record their calculations, having verified from the concerned department for the assistance of the court, to arrive at the actual amount, if due. In my view, attaching of the vehicle would not serve any purpose as it will curtail movement of the army vehicle for no rhyme and reason.

In view of above, impugned orders are set aside. Matter is relegated to the trial Court to decide the controversy afresh. Both the parties shall submit their calculations regarding payment of disability pension along

with interest and payment if any, already made. It shall be verified by the Account Section of the Department and if disputed, by independent agency on the basis of the salary record of the decree holder and in case, any amount is due, the petitioner would be liable to pay the same within two months. Parties are directed to appear before the trial Court on 26.04.2019.

Revision petition stand disposed of accordingly.

March 12, 2019

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(Amit Rawal)

Judge

Whether speaking / reasoned : Yes

Whether reportable : No