

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

106

CR No.4520 of 2018 (O&M)
Date of decision:4.2.2019

Brahm Parkash

... Petitioner

versus

Azad Singh through LRs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Ms.Sunita Nambiar, Advocate,
for the petitioner
Mr.S.S.Kharab, Advocate,
for respondents no.2 to 5.

...

AMOL RATTAN SINGH, J. (Oral)

On 30.1.2019, the following order was passed:-

“Vide the order dated 19.7.2018 passed in the accompanying petition, counsel for the petitioner had been directed to place on record the orders passed by the executing Court from 14.12.2017 till 19.7.2018. Thereafter, even till the next date of hearing, i.e. 3.8.2018, the needful had not been done, with none having appeared for the petitioner, possibly because despite not having issued any notice, this Court had passed an interim order in favour of the petitioner directing that if payment of compensation had not already been made, the executing Court would not disburse it till the next date of hearing at that stage, i.e. till 3.8.2018. The petition had thereafter been adjourned till today.

Today, learned counsel for the petitioner has still not complied with the order dated 19.7.2018, with these applications (CM Nos.2365-CII and 2368-CII of 2019) having in fact been filed by respondents no.2 to 5, to whom notice had not actually been issued, but obviously they being affected by the said order, have 'complied' with it, by now seeking to place on record the interim orders passed by the execution Court between 20.9.2017 till 29.9.2018.

The applications are allowed subject to all just exceptions and copies of the interim orders passed by that Court from 20.9.2017 to 29.9.2018 are ordered to be taken on record as Annexure A-1 collectively.

The applicants-respondents also seek to place on record copies of orders passed by this Court (coordinate Benches) in FAO No.4485 of 2005 and Cross-objections No.15-CII of 2006 in the same first appeal, the said orders being of the dates 5.8.2013 and 26.7.2017 respectively.

Copies of the said orders are also ordered to be taken on record subject to all just exceptions, as Annexures A-2 and A-3 with the accompanying petition.

CR No.4520 of 2018

What this Court obviously missed out on 19.7.2018 while granting an interim stay to the petitioner, *albeit* for a short date, that there is no order passed in any review application brought to the notice of this Court, in either the aforesaid first appeal or

the decision on the crossobjections filed thereto.

Hence, as to how the execution Court would go beyond what was awarded to the respondents claimants vide the order passed in the cross-objections aforesaid, is something which learned counsel for the petitioner would need to address arguments on.

This is further now to be seen with what Mr.Kharab, learned counsel for respondents no.2 to 5, submits, that as a matter of fact the statement stated to have been made by the respondents claimants as was referred to by learned counsel for the petitioner on 19.7.2018 (as recorded in the order of that date), was actually one made in execution proceedings pertaining to the Award of compensation made by the Tribunal.

It is further seen from the order passed by this Court on 26.7.2017 (in the aforesaid cross-objections), that the compensation awarded by the Tribunal to the respondents was Rs.1,87,300/-.

Respondents no.2 and 4 herein had made a statement on 20.2.2013 (part of Annexure P-3 collectively) before the execution Court seized of the proceedings pursuant to that Award, that they had received an amount of Rs.2,92,000/- in those execution proceedings. Obviously, that amount being higher than Rs.1,87,300/-, any compromise made was only on the quantum of interest which possibly may have been higher (if at all so), than what was accepted vide the aforesaid

statement, which was made almost 4½ years before the compensation was enhanced to Rs.5,94,000/-, by this court vide the order dated 26.07.2017. Thus, the statement made on 20.02.2013 being one in previous execution proceedings seeking execution of the Award of the Tribunal, with its specifically stated in that statement that it was being made only in the context of those proceedings, the contention made by learned counsel for the petitioner on the last date of hearing, would not seem to be correct that no enhancement of compensation was being sought by the petitioner.

Other than that, to repeat, learned counsel for the petitioner would address arguments as to how this petition can be entertained with the order passed by this Court in the aforesaid Cross-objections filed in FAO-4485-2005 not ever having been reviewed by this Court, with no application having been filed for that purpose, and in any case no further appeal having been filed.

Adjourned to 4.2.2019.

To be shown in the urgent list.

Since no formal notice was ever issued in this petition, it is now issued, with respondents no.2 to 5 obviously served, they already being present through counsel.

The case file of FAO No.4485 of 2005, including the Cross-Objections thereto, be put up along with this petition.”

Today, Ms.Nambiar, learned counsel for the petitioner, submits

that the petitioner no longer wishes to pursue the petition.

Dismissed as withdrawn.

4.2.2019
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No