

257 (02 Cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

1. CR No.5650 of 2018 (O&M)

Date of Decision: 14.02.2019

VIJAY KUMAR.PETITIONER

V/S

LAL SINGH.RESPONDENT

2. CR No.5731 of 2018 (O&M)

**M/S LACHMAN DASS & SONS THR. PROPRIETOR ASHOK KUMAR
(NOW DECEASED) THR HIS LRS.PETITIONERS**

V/S

LAL SINGH.RESPONDENT

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Manoj Kumar Sood, Advocate for the petitioner(s).
Mr. K.S. Khehar, Advocate for the respondent.

B.S. WALIA, J. (ORAL)

[1] This order shall dispose of civil revision petition Nos. 5650 and 5731 of 2018, as common questions of law and fact are involved.

[2] Revision petitions have been filed under Article 227 of the Constitution of India for the setting aside of order dated 08.09.2016 (Annexure P-5), passed by the learned Additional Civil Judge (Junior Division), Amritsar, as well as judgment and decree dated 23.05.2018 (Annexure P-7) passed by the

learned Additional District Judge, Amritsar, dismissing the prayer for setting aside of the *ex parte* judgment and decree dated 16.02.2001 passed by the learned Additional Civil Judge (Senior Division), Amritsar in case titled as 'Lal Singh, Proprietor of M/s Hari Singh Sant Singh Majith Mandi, Amritsar versus M/s Lachman Dass & Sons and others'.

[3] The petitioner in the hearing on 10.10.2018 had prayed for one month's time to arrange a purchaser of the attached property at his own level in order to fetch proper price and to make the payment with the assurance that in case he was unable to arrange a purchaser and make payment of the decretal amount along with interest within the time granted by the Court, he would not press the revision petition and would withdraw the same.

[4] In the aforementioned background, prayer for grant of one month's time to make payment of the decretal amount along with interest was not opposed by learned counsel for the respondent whereupon the learned Executing Court was directed to defer the execution proceedings to 15.11.2018. On the next date, the petitioner requested for reference of the matter to the Mediation and Conciliation Centre of the Court. However, the Mediation and Conciliation proceedings in the case were unsuccessful as the petitioner was not willing to proceed with the mediation proceedings. However, on 20.12.2018, learned counsel on instructions from the petitioner stated that the petitioner was willing to settle the matter by making payment of Rs.15,00,000/- as against the dues of approximately Rs.19,00,000/- and that in proof of his *bona fide*, he had got prepared two drafts of Rs.3,80,000/- and Rs.3,20,000/- bearing Nos.459199 and 027419 dated 13.11.2018 and 19.12.2018 respectively drawn on SBI Bank in favour of the respondent's firm

Rs.8,00,000/- to the respondent by 10.01.2019. The matter was adjourned to 10.01.2019 to enable counsel for the respondent to seek instructions qua amenability to the proposal put forward by the petitioner. Again on 31.01.2019, the case was adjourned for today on request of learned counsel for the respondent. Demand draft bearing No.459199 dated 13.11.2018 has been revalidated by a fresh demand draft No.459305 dated 13.02.2019 .

[5] Today, learned counsel for the petitioner states that the petitioner would handover aforementioned two drafts for sum of Rs.3,80,000/- and Rs.3,20,000/- bearing Nos.459305 and 027419 dated 13.02.2019 and 19.12.2018 respectively drawn on SBI in favour of the respondent's firm M/s Hari Singh Sant Singh and further that he would move an appropriate application before the Executing Court for release of the bank guarantee and the amount due in said Bank Guarantee Account would be paid to the respondent, while balance amount if any remaining outstanding as per judgment and decree dated 16.02.2001 would be paid within time to be granted by this Court.

[6] Learned counsel for the respondent states that already time has been granted to the petitioner, therefore, the execution proceedings be allowed to continue.

[7] However, taking into account all aspects of the matter, I am of the view that the proposal put forward by the petitioner merits acceptance. Accordingly, it is directed that the drafts of Rs.3,80,000/- and Rs.3,20,000/- bearing Nos.459305 and 027419 dated 13.02.2019 and 19.12.2018 respectively drawn on SBI Bank in favour of respondent's firm M/s Hari Singh Sant Singh be handed over to learned counsel for the respondent. Accordingly, both

027419 dated 13.02.2019 and 19.12.2018 respectively drawn on SBI in favour of respondent's firm M/s Hari Singh Sant Singh have been handed over to learned counsel for the respondent. Further the petitioner would move an application within two weeks from today before the learned Executing Court to release the bank guarantee in favour of the decree-holder.

[8] Balance amount if any remaining outstanding as per judgment and decree dated 16.02.2001 be paid by the petitioner to the respondent within a period of three months from today without any interest. Needless to mention, in case the payment schedule as referred to above be not adhered to, the respondent would be at liberty to take out appropriate proceedings in accordance with law.

[9] Both the aforementioned revision petitions are disposed of as above.

(B.S. WALIA)
JUDGE

February 14, 2019

'rajneesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No