

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

238

**CR No.5925 of 2018(O&M)
Date of Decision:13.5.2019**

KANWARJIT SINGH DHILLON

.....Petitioner

Versus

M/S SB TOWNSHIP INDIA LIMITED AND ANOTHER

.....Respondents

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

Present: Mr.J.S.Brar, Advocate
for the petitioner.

Mr. Vikas Jain, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

Vide order dated 5.4.2019, both the parties were directed to be present in Court for today. An amount of Rs.8 lakhs was to be paid by the judgment- debtor in favour of decree- holder in eight equal installments of Rs.1 lakh each from 1.5.2017 to 1.12.2017 as per terms and conditions of the compromise. In the event of failure to abide by the aforesaid terms and conditions of the compromise, the decree-holder was entitled for whole of the decretal amount of Rs.17 lakhs.

Admittedly, there was an omission on the part of the judgment-debtor in not honouring the schedule of payment. The execution has been dismissed primarily on the ground that

an amount of Rs.8 lakhs brought by the judgment-debtor in the form of two demand drafts of Rs. 4 lakhs each was not accepted by the decree-holder.

Admittedly, there was default on the part of the judgment-debtor in not honouring the commitment arising out of the compromise. The failure on the part of the judgment-debtor, in such a situation, would give rise to a right in favour of the decree-holder to claim the entire decretal amount of Rs.17 lakhs in accordance with law. The execution was one of the recognized mode for claiming the aforesaid amount in due course of law. By intending to make payment of Rs.8 lakhs only as against Rs.17 lakhs, the Executing Court has committed illegality by dismissing the execution.

For the reasons recorded herein above, I deem it appropriate to set aside the impugned order dated 19.5.2018 passed by the Additional Civil Judge, Moga and restore the Execution petition. The Executing Court shall proceed to decide the execution in accordance with law.

Petition stands disposed of accordingly.

May 13, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No