

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6939 of 2015

Date of Decision: 28.05.2019

Palwinder Singh

.....Petitioner

Vs.

Rajwinder Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. M.K. Kahlon, Advocate,
for the petitioner.

Mr. G.S. Verma, Advocate,
for respondents no. 1 to 4.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners' prayer is that the execution proceedings filed under Section 176 of the Motor Vehicles Act, 1988, for recovery of the compensation awarded to the respondent claimants, vide the Award dated 07.10.2009 (Annexure P-2), passed by the learned Motor Accidents Claims Tribunal, Amritsar, be 'set aside' qua him, on the ground that though the executing Court has issued notice to the petitioner, he was not a party to the claim petition.

Pursuant to the order passed by this court on 10.05.2019, on the 2nd call of this case in the post lunch session, the report of the learned Additional District Judge, Amritsar, has been received (dated 28.05.2019 itself), stating therein to the effect that an execution application was filed against Hira Singh son of Gurmit Singh and Ujaggar Singh son of Wassan Singh (respondents no. 1 and 2 respectively before that Court).

The petitioner herein, i.e. Palwinder Singh, was arrayed as respondent

no. 3 in the said application.

In that application it was also stated that FIR No. 36 of 2006 had been registered against Hira Singh, alleging therein the commission of offences punishable under Sections 304-A/279/337 IPC, with it also reported that no person by the name of Ujaggar Singh lived at Village Suro Padda and an application for cancellation of '*Sapurdari*' was moved before the Sub-Divisional Magistrate, Baba Bakala.

Yet further, it is stated in the report/communication from the learned Additional District Judge, that the petitioner herein, i.e. respondent no. 3 before that Court, had stood surety for Ujaggar Singh "as he was at the helm of affairs and he had forged and fabricated the registration of the offending vehicle in the name of Ujaggar Singh whereas Palwinder Singh was actual owner of this vehicle, i.e. Tractor-Trolly bearing no. PUE 7719."

Yet further, it is stated that the petitioner herein had denied any knowledge of any application moved in the Court of the Sub-Divisional Magistrate, Baba Bakala, for cancellation of '*Sapurdari*' and had also denied ownership of the vehicle and had submitted that the claimants were at liberty under law to get the vehicle attached and sold in public auction.

Next, it has been stated in the report that other than the reply filed by the petitioner herein, i.e. respondent no. 3 in the execution proceedings, no separate objections had been filed by him.

It has, still further, been stated that JD No. 1 Hira Singh had been proceeded against *ex parte*, vide an order dated 09.09.2013, with proceedings against respondent no. 2 (Ujaggar Singh son of Wassan Singh) having been dismissed for want of the correct address.

Lastly, it has been stated that in view of the order passed by this Court

in the present petition, staying execution proceedings against the petitioner, such proceedings have been adjourned *sine die* since 11.05.2017.

Learned counsel for respondents no. 1 to 4 has reiterated what he had argued in the morning, to the effect that as a matter of fact the petitioner impersonated Ujaggar Singh and as such, he is a necessary party to the execution proceedings.

Learned counsel for the petitioner, on the other hand, submits that the petitioner not being a respondent in the claim petition before the Motor Accidents Claims Tribunal from which the execution proceedings arise, he is an unnecessary party in such proceedings.

Having considered the matter and also having seen the report received from the Additional District Judge, Amritsar, without making any comment upon either the report, or the contentions raised by learned counsel for respondents no. 1 to 4, which would be a matter gone into by the learned execution Court, I see no reason to entertain this petition in the circumstances, especially in view of the allegation that the petitioner impersonated a non-existent person, Ujaggar Singh, to try and avoid payment of compensation.

Learned counsel for the petitioner has also not been able to satisfactorily answer the repeated query of this court as to why he could not satisfactorily prove before the Tribunal itself that he has nothing to do with the claim petition or the accident in question (as is contended by him), instead of approaching this court to try and set aside the execution proceedings, without even awaiting any order passed on merits on any such contention raised before that court.

Consequently, the petition is dismissed and the interim order dated 16.10.2015 stands vacated.

Naturally, the petitioner would be at liberty to raise all contentions as are available to him in law before that court, which would consider the same and take a decision on whether the petitioner is a necessary party to the execution proceedings or not, accordingly.

May 28, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes.