

CR-6980-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6980-2017 (O&M)

Date of decision : 23.01.2019

Tilak Ram Sharma (deceased) through LRs

... Petitioner

Versus

Ludhiana Improvement Trust, Feroze Gandhi Market,
Ludhiana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Salar, Advocate
for the petitioner.

Ms. Kulvir Kaur, Advocate for
Mr. S.P.S. Tihna, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

The short point involved in the present revision petition is whether the counsel can withdraw the execution application without instructions of the petitioner-decree holder. The answer is 'No' in view of the law laid down by Hon'ble the Supreme Court in **Himalayan Cooperative Group Housing Society Versus Balwan Singh, 2015(7) SCC 373**, as serious prejudice has been caused to the petitioner-decree holder, despite the fact that counsel is not empowered to do so. The Hon'ble Supreme Court in **Himalayan Cooperative Group Housing Society's case** (supra) has culled out the following situations where the lawyers representing the clients can exercise their powers:-

a) *Lawyers owe fiduciary duties to their clients-Lawyers*

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should follow the client's instructions rather than substitute their judgment for that of the client;

b) A lawyer must be specifically authorised to settle and compromise a claim, that merely on the basis of his employment he has no implied or ostensible authority to bind his client to a compromise/settlement;

c) Lawyers should follow the client's instructions rather than substitute their judgment for that of the client;

d) In some cases lawyers can make decisions without consulting client-While in others, the decisions reserved for the client;

e) It is often said that the lawyer can make decisions as to tactics without consulting the client, while the client has a right to make decisions that can affect his rights.

The trial Court, once having brought to this fact by the separate application, should have recalled the order and restored the execution application. In the absence of the same, the impugned orders cannot be said to be sustainable in the eyes of law being erroneous and perverse, thus, the same are hereby set aside. The application for restoration of the execution application is allowed and the execution application is ordered to be restored to its original number.

With the aforesaid observations, the present revision petition stands disposed of.

23.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**