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

CR No. 8164 of 2016

Date of Decision: 19.11.2019

M/s Bansal Traders and others

-Petitioners

Vs

Manmohan Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. K.S. Dadwal, Advocate,
for the petitioners.

Mr. Rohit Suri, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have preferred this revision petition against the order dated 13.10.2016 passed by Civil Judge (Junior Division), Ludhiana vide which application filed by the petitioners under Section 151 CPC for dismissing the suit has been rejected.

At the time of issuance of notice of motion on 22.12.2016, following order was passed:-

"CM No. 26429-CII of 2016

Heard.

Allowed as prayed for.

Annexure P-10 is taken on record subject to just exceptions.

Registry is directed to tag the same at an appropriate place.

Main case

Counsel for the petitioners inter alia contends that the respondent/plaintiff has filed a suit for mandatory injunction directing the petitioners/defendants to return the cheques with consequential relief of permanent injunction with regard to the cheques, detailed in head note of the plaint (Annexure P-9). In the said suit, application filed by the petitioners for dismissal of the suit has been dismissed by the trial court. It is further submitted that the very same cheques were the subject matter of civil suit M/s Bansal Traders vs. M/s Manmohan Flour Mills and another for recovery of Rs. 77,06,330/- with interest and the said suit has been decreed (ex parte) vide judgment and decree dated 25.9.2015 and the said decree has attained finality as it has not been assailed by the respondent. It is further submitted that all these cheques became subject matter of seven criminal complaints filed under Section 138 of the Negotiable Instruments Act and in those cases the respondent/plaintiff has been convicted and the appeals are pending.

Notice of motion for 18.4.2017.

Further proceedings before the trial court shall remain stayed.”

Evidently, suit filed by the present petitioners for

recovery of Rs.77,06,330/- with interest was decreed exparte vide judgment and decree dated 25.09.2015. The said decree has already attained finality. The execution of said decree is pending. Cheques which were issued by the respondent in favour of petitioner No.1 were dishonoured. Number of complaints were filed under Section 138 of the Negotiable Instruments Act in which the respondent was convicted. In criminal complaint No.222 of 2009, four cheques bearing No.307552, 307553, 307555 and 307556 were exhibited for different amounts. Similarly, in complaint No.223 of 2009, seven different cheques were exhibited. In complaint No.229 of 2009, ten cheques were exhibited. In complaint No.225 of 2009, ten cheques were exhibited. In complaint No.234 of 2009, twelve cheques were exhibited. In complaint No.231 of 2009, eighteen cheques were exhibited. In complaint No.234-A of 2009, twelve cheques were exhibited.

Respondent was convicted in all the aforesaid criminal complaints. Ultimately, after dismissal of appeal before the First Appellate Court, different revision petitions were filed in which prayer was made for running of sentences concurrently.

This Court vide order dated 14.02.2018 passed in a bunch of criminal revision petitions dismissed the same. Thereafter, present suit for mandatory injunction came to be

filed with the prayer that the cheques be returned to the plaintiff-responder.

Even though the frame of the application is under Section 151 CPC, but keeping in view the aforesaid admitted facts on record, I deem it appropriate to exercise extra-ordinary Power of superintendence under Article 227 of the Constitution of India to stop mis-use of process of law.

The cheques in question have already been utilized by way of exhibiting the same in criminal complaints. Criminal complaints have already reached their logical end.

In view of facts and circumstances of the case, I deem it appropriate to accept this revision petition. Consequently, impugned order dated 13.10.2016 passed by Civil Judge (Junior Division), Ludhiana is hereby set-aside.

Normal consequences to follow.

19.11.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No