

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

Sr. No.223

CR-8373-2017 (O&M)

Date of decision: 17.05.2019

The Punjab Co-op. Supply & Marketing Federation Limited and others
....Petitioners

versus

M/s Bhara Mal Ram Nath and others
....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Deepali Puri, Advocate
for the petitioners.

Mr. Naresh Prabhakar, Advocate
for respondent No.1.

None for respondents No.2 and 3.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 31.03.2016 passed by the Additional Civil Judge (Senior Division), Sultanpur Lodhi (for short – the Executing Court) through which the Executing Court has directed the petitioner to pay interest on the decretal amount. Also under challenge is the order dated 03.08.2017 passed by the Additional District Judge, Kapurthala (for short – the Appellate Court) through which an appeal filed by the petitioners against the afore-referred order dated 31.03.2016 was dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit seeking therein mandatory injunction to direct the petitioners to return 8910 new gunny bags. Compensation was also claimed. On being put to notice,

the petitioners, who were the defendants in the suit, appeared before the Trial Court and contested respondent No.1's claim. After sifting the evidence led by both the parties, on 09.01.2012, the Trial Court decreed respondent No.1's suit and directed the petitioners to return 8910 new gunny bags to respondent No.1 as also to pay compensation. The petitioners filed an appeal against the aforesaid judgment and decree which was dismissed by the Appellate Court. The aforesaid decree attained finality.

Respondent No.1 filed an application seeking execution of the afore-referred decree. Through order dated 31.03.2016, the Executing Court, after assessing the rate of the gunny bags, directed the petitioners to pay to respondent No.1 such amount equivalent to 8910 new gunny bags. Compensation which was assessed by the Executing Court at Rs.40,000/- was also directed to be paid. Interest @ 12% per annum from the date when the aforesaid amount became due till the filing of the execution application and future interest @ 6 % per annum on the principal amount i.e. price of 8910 new gunny bags till its realization was also granted. An appeal filed by the petitioners against the afore-referred order of the Executing Court was dismissed by the Appellate Court occasioning the filing of the present petition.

Grant of interest by the Executing Court by going beyond the decree is challenged by the petitioners through the present proceedings.

Learned counsel for the parties have been heard.

The decree dated 09.01.2012 passed by the Trial Court while accepting respondent No.1's suit is reproduced as under:-

“It is hereby ordered that suit for the plaintiff succeeds and the same is hereby decreed with costs and decree for mandatory injunction is hereby passed in

favour of the plaintiff and against the defendants, directing the defendants to return 8910 new gunny bags to the plaintiff and also to pay compensation for loss caused to the plaintiff firm on account of non-return of the said gunny bags.”

The appeal against the above aforesaid decree filed by the petitioners was dismissed by the Appellate Court on 15.11.2013. No further appeal was filed by either party.

A perusal of the afore-quoted decree shows that respondent No.1 was held entitled to 8910 new gunny bags as also compensation. No interest was ordered to be paid. After determining the rate of a new gunny bag at Rs.19/-, the Executing Court directed the petitioners to pay to respondent No.1 an amount of Rs.1,69,290/-. Compensation @ Rs.40,000/- was also assessed and directed to be paid. The direction to the petitioners to pay to respondent No.1 the aforesaid amounts cannot be faulted with. However, grant of interest by the Executing Court is clearly beyond the decree which could and should have not been done.

In view of the above, the impugned orders are set aside only to the extent that interest, both past and future, has been granted through it.

The petition is allowed in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

May 17, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No