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

CR-747-2019

Date of decision: 25.03.2019

M/s Wahid Sandhar Sugars Ltd.

....Petitioner

Versus

Manjit Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anant Kataria, Advocate
for the petitioner.

Mr. Manmeet Singh Rana, Advocate
for respondent No. 1.

Mr. Rahul Sharma, Advocate
for respondent No. 2.

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 05.01.2019 passed by the Civil Judge (Junior Division), Jalandhar (for short 'the Executing Court') dismissing the petitioner's objections filed by it in the execution proceedings preferred by respondent No.1 as also rejecting the petitioner's application through which the petitioner sought detachment of its bank accounts.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 was a workman in M/s Oswal Agro Mills Ltd-respondent No. 2. His services were terminated occasioning the raising of an industrial dispute by him before the Labour Court at Jalandhar which through award dated 10.03.1999 set aside the termination of respondent

No. 1 and ordered his reinstatement along with full back wages. Respondent No. 2 challenged the aforesaid award dated 10.03.1999 through a writ petition filed before this Court being CWP No. 9275 of 1999 titled as M/s Oswal Agro Mills Ltd. Versus Presiding Officer, Labour Court, Jalandhar and another. In such petition, through order dated 09.08.1999, a Division Bench of this Court, while issuing notice of motion, stayed the operation of the impugned award, subject to provisions of Section 17-B of the Industrial Disputes Act, 1947 (for short 'the Act'). Thereafter, the dispute pending before this Court was referred to the Lok Adalat which through order dated 16.11.2016, for non-appearance of any of the parties before it, directed that the matter be consigned to the record with liberty to respondent No. 2 to get it revived, in case of need. On 06.03.2017 respondent No. 1 filed an application before the Executing Court seeking execution of the aforesaid award of the Labour Court dated 10.03.1999 stating that the writ petition filed by respondent No. 2 against the aforesaid award, of which he was seeking execution, had been disposed of. Relying upon the averments made by respondent No. 1 in his application, the Executing Court proceeded with the matter and after accepting respondent No.1's stand that the Mill in which respondent No. 1 had been working and which was earlier under the management of respondent No. 2 had been sold by respondent No. 2 to the petitioner, the Executing Court directed the petitioner to execute the aforesaid award of the Labour Court and on its inability to do so ordered attachment of its accounts. The petitioner had filed objections to the execution petition filed by respondent No. 1 as also

an application for de-attachment of its bank accounts which were dismissed by the Executing Court through the order under challenge in the present proceedings.

Learned counsel for the parties have been heard.

Respondent No. 1 seeks execution of award dated 10.03.1999 passed by the Labour Court ordering his reinstatement with full back wages. Such award was challenged by respondent No. 2 through a writ petition filed in this Court being CWP-9275-1999 in which a Division Bench of this Court, subject to provisions of Section 17-B of the Act, stayed the operation of the aforesaid order. Thereafter, the matter was referred to the Lok Adalat but since none of the parties appeared before the Lok Adalat, vide order dated 16.11.2016, the matter was ordered to be consigned to the record with liberty to respondent No. 2 to get it revived, in case of need. Respondent No. 2 filed an application before the Lok Adalat for revival of the matter which was allowed by the Lok Adalat on 26.10.2018, by passing of the following order:-

“Respondent No. 2 has been served. He has put in appearance in person.

This petition was consigned to record vide order dated 16.11.2016 of the Lok Adalat as it was reported on a notice issued to the petitioner that M/s Oswal Agro Mills Ltd. has since been closed.

Now an application has been moved by the petitioner that only one of its unit had been closed, whereas the company is in existence.

In view of the above, we recall order dated 16.11.2016 and restore the writ petition at its original number. The address of the respondent No. 2 as noted in order dated 08.10.2018, be also corrected in the Memo of Parties.

*The matter deserves to be decided on its own merits.
Returned to the High Court.”*

A perusal of the afore-quoted order reveals that respondent No.2's writ petition, in the presence of respondent No.1-workman, was restored at its original number. Such order was not challenged by respondent No. 1-workman. Resultantly, not only respondent No. 2's writ petition is still pending but the stay order granted by the Division Bench on 09.08.1999 continues to operate.

In view of the above, the execution proceedings initiated by respondent No. 1-workman which is based on the assumption that respondent No. 2's writ petition filed against the award of the Labour Court had been disposed of, does not survive. Accordingly, the impugned order is set aside.

However, it is clarified that the present order would not stand in the way of respondent No. 1 to move an application in the aforesaid pending writ petition either to seek his remedy for non-payment of wages under Section 17-B of the Act and/or for impleadment of the petitioner on the ground that the Management of Mill which was earlier under respondent No. 2 has been taken over by the petitioner.

The present petition is allowed in the above terms.

25th March, 2019

shabha

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No