

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1693 of 2019

Date of Decision: 12.03.2019

Vinod Kumar

.....Petitioner

Vs.

Labour Inspector-Cum-Conciliation Officer, Yamuna Nagar-II

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rahul Sharma-1, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned Additional Civil Judge (Senior Division), Jagadhri, dated 18.12.2018, which reads as follows:-

“Labour Inspector is not present in the Court. The perusal of the file shows that the case is pending for long for consideration on issue that if no labour is available to receive the amount under this execution, is Commissioner Authority under the Minimum Wages Act entitled to receive the amount on behalf of the labourers. However, the Labour Inspector is not able to provide any provision under law under which he has been authorised to receive the amount. Now, Assistant Labour Commissioner is directed to appear before the Court on 20.12.2018. Learned APP for the State is directed to ensure his presence. Copy of this order be handed over to learned APP to ensure the strict compliance. In case of absence of Assistant Labour Commissioner coercive method shall be undertaken. Now, to come up on 20.12.2018

for presence of Assistant Labour Commissioner.”

He thereafter draws attention to the order passed by that Court prior to that date, on 29.11.2018 (copy Annexure P-10), in which it is stated that the judgment-debtor had deposited, by way of a bank guarantee, the amount of fine imposed by the competent authority under the Minimum Wages Act, but with the Labour Inspector not being able to produce the addresses of the labourers qua whom the order of payment was made by the said authority.

Mr. Sharma submits that actually the petitioner is not the judgment-debtor, i.e. he is not the employer of the labourers in respect of whom the fine is being recovered, but is a tenant on the premises owned by that employer. However, since it is the petitioner who has been harassed on account of the pending proceedings, he had offered to make the payment and subsequently recover it from the landlord/employer.

He further draws attention to sub-section (5) of Section 20 and Section 22-D of the Minimum Wages Act, 1948, which read as follows:-

“Section 20.Claims- (5) Any amount directed to be paid under this Section may be recovered--

(a) If the authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) If the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.”

“Section 22D. Payment of undisbursed amounts due to employees- All amounts payable by an employer to an employee as the amount of minimum wages of the employee under this Act or otherwise due to the employee under this Act or any rule or order made thereunder shall, if such amounts could not or cannot be paid to the employee on

account of his death before payment or on account of his whereabouts not being known, be deposited with the prescribed authority who shall deal with the money so deposited in such manner as may be prescribed.”

Thus, a reading of Section 22-D shows that even if the labourers in respect of whom the payment is to be made are not traceable, the payment would be deposited with the prescribed authority, who deal with the money in such manner as may be prescribed.

Mr. Sharma submits that the petitioner not being the employer and therefore actually not the judgment-debtor bound to make the payment, he may be allowed to not make the actual payment but should be allowed to keep the bank guarantee alive, till such time as the competent authority decides the mode of disposal of the fine so deposited.

Whereas though otherwise, since the whereabouts of the labourers to whom the money is to be disbursed are not known, the contention of learned counsel may not have been unacceptable, however, in view of what is contained in Section 22-D, to the extent that the money is actually to be deposited with the prescribed authority, for him to thereafter deal with it in the manner as may be prescribed, I see no ground to actually accept that prayer.

Consequently, finding no merit in this petition, it is dismissed *in limine*, with it however observed that, naturally, if the petitioner is not the judgment-debtor, it is entirely his choice to deposit or to not to deposit the fine.

March 12, 2019
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes