

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 228

CR-8170-2019 (O&M)

Date of decision : 19.12.2019

Kanwar Sain Jain (deceased)
through LR and another

..... Petitioners

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Akshay Jindal, Advocate, for the petitioners.

Mr.Pankaj Mulwani, DAG, Haryana.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 22.08.2019, passed by the Additional District Judge, Gurugram (for short, the Executing Court), through which the decretal amount has been ordered to be released to the petitioners/decreed holders subject to their furnishing security/indemnity bonds in the same amount of the FDR (alongwith upto date interest) with one surety in the like amount.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioners approached the Executing Court seeking therein to execute the order dated 07.07.2017, passed by the Additional District Judge, Gurugram through which they were held entitled to receive from the respondents an amount of ₹9,97,078/- (for short, the decretal amount). In the course of such proceedings the Executing Court issued warrants of attachment after which the decretal amount was transmitted by the respondents to the Executing Court and was ordered to be released to the petitioners subject to their furnishing security/indemnity bonds with one surety. The condition imposed by the Executing Court with regard to furnishing of security/indemnity bonds and surety is challenged through the present proceedings.

Learned counsel for the petitioners submits that the decretal amount

was required to be released to the petitioners unconditionally and that there was no reason for the Executing Court to impose the impugned condition.

Since before the Executing Court respondent No.3 had not raised any objection to the unconditional release of the decretal amount to the petitioners, notice in the present petition was issued to the remaining respondents i.e. respondents No.1 and 2, in pursuance of which learned State counsel has put in appearance and on instructions from Mr.Ajay, who is working as Patwari in the office of DRO-cum-LAC, Gurugram, submitted that respondents No.1 and 2 also have no objection if the decretal amount is unconditionally released to the petitioners.

In view of the fact that none of the respondents/judgment debtors have any objection to the unconditional release of the decretal amount in favour of the petitioners and that admittedly no other claim or proceedings pertaining to the acquisition of the petitioners' land are pending, the impugned condition imposed by the Executing Court to release the decretal amount to the petitioners, subject to their furnishing security/indemnity bonds with one surety, is found to be without any basis and is accordingly set aside. Resultantly, the aforesaid order of the Executing Court dated 22.08.2019 shall now be read without the aforesaid condition.

The petition is allowed in the above terms.

19.12.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No