

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.3038 OF 2014

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908, is filed by the revision petitioner/judgment debtor No.2 aggrieved by the order, dated 30.07.2014, passed in E.P.No.4 of 2014 in O.P.No.277 of 1985 by the VI Additional District Judge, Godavarikhani, wherein the Court below has not accepted the calculation memo of the revision petitioner/judgment debtor No.2 and directed the Office to calculate the decree amount due by granting all statutory benefits including interest on solatium from the date of judgment of the Honourable Supreme Court in *Sunder v. Union of India*¹ i.e., from 19.09.2001.

2. Heard learned counsel for the revision petitioner/judgment debtor No.2 and the learned counsel for respondent No.1/decreed holder and perused the record.

3. The revision petitioner/judgment debtor No.2 is not disputing with regard to the determination of the amounts i.e., statutory benefits, namely, additional market value etc. The revision petitioner/judgment debtor No.2 has raised a dispute only with regard to the following operative portion of the impugned order passed by the Court below:

“8. Hence, the calculation memo of JDR is not accepted. Office to calculate the decree amount due

¹ (2001) 7 SCC 211

by granting all statutory benefits including interest on solatium from the date of judgment of the Hon'ble Supreme Court in Sundar's case i.e., from 1999-2001 onwards and by giving due credit to the periodical deposits by JDR."

4. The operative portion of the impugned order indicates that the office of the Court below was directed to calculate the decretal amount due by granting all statutory benefits including interest on solatium from the date of the judgment rendered by the Honourable Supreme Court in Sunder's case (supra) i.e., 19.09.2001. The grievance of the revision petitioner/ judgment debtor No.2 is that a calculation memo, at the first instance, is required to be filed by respondent No.1/deGREE holder (claimant No.2). Thereafter, the other side may dispute and file a reply to that. Then the Court is required to calculate the amounts payable under the decree.

5. As rightly pointed out, at the first instance, it is for the decree holder to calculate and file a calculation memo. Thereafter, if there is any objection to that, the other side may file its calculation memo. Thereafter, the Court is ultimately required to calculate the amounts payable under the decree. So, the impugned order, to the extent of directing the office to calculate the decree amount due, is erroneous and to this limited extent, the impugned order, dated 30.07.2014, is liable to be set aside.

6. Accordingly, the Civil Revision Petition is allowed in part setting aside the impugned order, dated 30.07.2014, passed in E.P.No.4 of 2014 in O.P.No.277 of 1985 by the VI Additional District Judge, Godavarikhani, only to the extent of directing the office of the Court below to calculate the decretal amount due. The revision petitioner/judgment debtor No.2 and respondent No.1/deGREE holder are directed to file their respective calculation memos. On filing such calculation memos, the Court below is directed to dispose of the same within a period of two (2) months thereafter.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

January 10, 2020.
MD