

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CR-2401-2020 (O&M)
Date of Decision:-26.10.2020

Mandeep Joon and another ... Petitioners

Versus

Subeejam Seed (India) Pvt. Ltd. and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Piyush Kant Jain, Advocate for the petitioners.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners/Judgment Debtors assail order dated 19.2.2020 (Annexure P-14) vide which objections filed by them under Section 47 CPC have been dismissed.
2. Respondent No. 1/plaintiff Subeejam Seed (India) Private Limited along with its partner Shyam Lal Singhal had instituted a suit for recovery of ₹38,50,000/- against the petitioners Mandeep Joon and Ishwar Singh for recovery of an amount of ₹38,50,000/- which was decreed vide judgment and decree dated 9.10.2015 by the Court of Civil Judge (Junior Division) Kurukshetra to the extent of recovery of ₹17,94,364/-. Although the Judgment Debtors preferred an appeal against the aforesaid judgment and decree but the said appeal was dismissed vide judgment and decree dated

4.10.2019 passed by the court of learned Additional District Judge, Kurukshetra. The plaintiff - M/s Subeejam Seed (India) Pvt. Ltd moved an application for execution of the judgment and decree dated 9.10.2015, during the course of which objections were filed by the Judgment Debtors which were dismissed by the Executing Court vide order dated 19.2.2020 passed by the Court of Additional Civil Judge (Senior Division) Kurukshetra which has been assailed by way of filing the instant revision petition.

3. The learned counsel for the petitioners has submitted that at best it is a case of some transactions between two companies/firms and that the Chairman and the Managing Director of the defendant company cannot be held liable in any manner for payment of the dues and that the judgment and decree passed against them is null and void and is not executable qua them.
4. I have considered the aforesaid submission. A perusal of the array of parties would show that the plaintiff M/s Subeejam Seed (India) Pvt. Ltd through its partner Shyam Lal Singhal had instituted a civil suit for recovery against Nodai Seeds India (Private) Limited through its Managing Director Mandeep Joon (Defendant No.1), Mandeep Joon, Managing Director, Nodai Seeds India (Private) Limited (Defendant No.2) and Ishwar Singh, Chairman Nodai Seeds (Private) Limited (Defendant No.3).
5. A perusal of the judgment dated 9.10.2015 passed by the Court of Civil Judge (Junior Division) Kurukshetra would show that issue No. 1 was specifically framed as regards the entitlement of the plaintiff to recover the amount in question. The said issue No. 1 reads as follows :-

“1. Whether plaintiff is entitled to recover an amount of ₹38,50,000/- along with interest at the rate of 15% per annum from the defendants? OPP”

6. The learned trial Court returned its findings on issue No. 1 as follows :-

“15. Therefore, in view of above said discussion, this Court has reached the conclusion that the plaintiff is only entitled to recovery of Rs.10,00,000/- being security deposit with interest of Rs.1,45,000/- on this amount and remuneration to the amount of Rs.6,49,364/- (which is 2.5% of Rs.2,59,74,579/-). The total amount comes out to be Rs.17,94,364/-. Resultantly, issue No.1 is partly decided in favour of plaintiff and against the defendants.”

7. The suit was accordingly decreed. Para 19 pertaining to the relief clause i.e. the concluding paragraph of judgment dated 9.10.2015 reads as follows :-

“19. As a sequel of my findings on the above said issues, especially issues No.1 & 2, the suit of the plaintiff is partly decreed in favour of the plaintiff with proportionate costs. The plaintiff is held entitled to recover Rs.17,94,364/- with pendentelite and future interest at the rate of 8% per annum upon this amount till realization of decretal amount. Decree sheet be prepared accordingly. File be consigned to record room after due compliance.”

8. Although the aforesaid judgment and also the decree was challenged by way of filing an appeal but the same was dismissed by the Court of Additional District Judge, Kurukshetra vide judgment dated 4.10.2019. There is nothing on record to show that the said judgment dated 4.10.2019 has been challenged by way of filing any RSA or as to whether the judgment and

decree has been stayed by any higher Court. In these circumstances, the judgment and decree in question are required to be executed unless set aside or stayed by any higher Court, which is not the case in the present case. Though, the learned counsel for the petitioners has vehemently argued that the Managing Director and Chairman of the company cannot be held liable in any manner but the facts of the present case would show that the Managing Director and Chairman are very much thick and thin with the company inasmuch as they have been giving their personal guarantees for the purpose of borrowing secured loans from the bank and for business as has been specifically admitted by them in their reply/petitions filed to the execution petition. The said aspect has also been noticed by the trial Court. The relevant extract of which reads as follows :-

“..... That the judgment debtor is a self styled company constituted by JD no. 2 and 3 and all the profit and loss of JD no.1 are shared by JD no.2 and 3 only. Moreover, the court has passed the decree jointly and severely against all the JDs and as such the decree is to be executed from the properties of one and all of the JDs. That on the one hand, the JDs have alleged that the JD no.2 and 3 are just the directors/Chairman of the company and on the other hand, the JD no.2 and 3 have alleged that they had given personal guarantee of their own properties to borrow loan from the bank for the business of JD No.1 and this fact shows that JD no.1 Company is the self styled company of JD no.2 and 3. That no other person from the General public has any right, title or interest whatsoever, in JD no.1 Company.....”

9. This Court does not find any ground to differ with the aforesaid observations, particularly when the judgment and decree sought to be executed has neither been set aside nor has been stayed.
10. Finding no merit in the petition, the same is hereby dismissed.

26.10.2020
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No