

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

117

CR-4655-2018(O&M)
Date of decision: 08.08.2022

MANDER SINGH

..Petitioner

Versus

M/S SANTOKH SINGH & SONS

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.K. Walia, Advocate
for the petitioner.

Mr. Ashok Paul Batra, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is a judgment debtor. In a suit filed on 03.10.2002, by a pesticide dealer for the recovery of amount against a farmer, a decree for recovery of Rs.2,06,194/- with costs and the future interest at the rate of 12% per annum from the passing of decree till the realization of the decretal amount was passed.

The operative part of the decree reads as under:-

“This suit coming on this day for final disposal before me Sh. H.S. Gill PCS Addl. Civil Judge (SD) Muktsar in the presence of Shri Sat Pal Goyal Adv. Counsel for the plaintiff and Shr. N.D. Diwan Adv. Counsel for the defendant and it is ordered that suit of the plaintiff succeeds and the same is hereby ordered to be decreed for the recovery of Rs.206194/- with costs and with future interest @Rs.12% per annum from the date of passing of the decree till the realization of the decretal amount.”

The Executing Court while issuing the schedule of sale of the property of the judgment debtor held that the interest at the rate of 12% is payable from 03.10.2002 to 19.02.2015.

The order dated 06.07.2018, reads as under:-

“Heard on the point of assessment of due amount which be paid by the JD to DH. The perusal of the file shows

that amount of Decree is Rs.2,06,194/- Interest rate was assessed by the Court 12 percent PA and from 03.10.2002 to 19.02.2015 till the date of the filing of the execution petition interest is Rs.6,35,268/- and cost of suit is Rs.4398/- and cost of EP is Rs.12,000/-. Further, interest from the filing of the suit till date is Rs.3,93,930/-. So that court is of the view that the DH is entitled to recover the amount of Rs.12,51790/- so now sale warrant be issued as per following schedule.”

The Executing Court is required to execute the decree as it exists. It is evident that a suit for recovery of Rs.2,06,194/- with cost and future interest at the rate of 12% per annum from the passing of decree till the realization of the decretal amount was passed.

Hence, the interest on the amount of Rs.2,06,194/- from 03.10.2002, was not payable. It appears that the trial Court has overlooked the aforesaid matter.

Consequently, the order dated 06.07.2018, is set aside.

The learned counsel representing the judgment debtor has submitted that he has already paid Rs.4,71,735/-. Let the Executing Court reexamine the matter and pass a fresh order.

The learned counsel representing the decree holder submits that in the meantime, the property of the judgment debtor has been sold by a public auction.

Keeping in view the aforesaid facts, the Executing Court is requested to reexamine the entire matter and pass a fresh order.

With these observations, the present petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

August 08th, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned

: *Yes/No*

Whether reportable

: *Yes/No*