

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr.No.216

Case No. : C.W.P. No.1872 of 2022

Date of Decision : February 23, 2022

Chemical and Mechanical
Engineering Industries Petitioner
VS.

Civil Judge, Senior Division,
Mohali and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH.

* * *

Present : Mr. Anuj Garg, Advocate
for the petitioner.

Mr. Preetwinder Singh Dhaliwal, Advocate
for respondent no.1.

Mr. Sunil Chadha, Senior Advocate
with Mr. Akshay Chadha, Advocate
for respondents no.3 and 4.

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RAJ MOHAN SINGH, J. (Oral) :

The case has been taken up for hearing through
Video Conferencing.

The petitioner has preferred this petition seeking
issuance of appropriate directions to respondent no.1 for not
proceeding further in the Execution proceedings till at least 30
days' statutory period from the date of preparation of certified
copy of the joint order dated 10.01.2022.

Notice of motion was issued on 03.02.2022 to the

following effect :-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner contends that suit property belongs to partnership firm and no individual partner is competent to suffer any decree. Petitioner filed 3rd party objections under Order 21 Rule 98 to 103 CPC on 21.11.2019 and the same were dismissed on 10.01.2022 by the Executing Court without uploading the order on the Web Portal. Perusal of short order dated 10.01.2022 would show that vide a joint order, 10 applications were decided. In the list of those 10 cases, 3rd party objections filed by the petitioner find mention at Serial No.7. Order dated 10.01.2022 was only uploaded on 31.01.2022 even after filing of present petition on 27.01.2022. Petitioner could not get the copy of order in time so as to assail the same in accordance with law.

Prayer of the petitioner in the instant writ petition is only to the extent of making available the certified copy of order dated 10.01.2022 so as to assail the same in accordance with law before the competent Court.

Notice of motion for 10.02.2022.

Since, the execution proceedings are pending before the Executing Court after issuance of warrant of possession, therefore, the same shall be deferred, till the next date of hearing.”

Mr. Sunil Chadha, Senior Advocate, assisted by Mr. Akshay Chadha, Advocate, who is appearing for respondents no.3 and 4, has vehemently contested the claim of the petitioner by filing a short reply alleging that at the time of issuance of notice of motion on 03.02.2022, the certified copy of the order dated 10.01.2022 was very much available with the learned counsel for the petitioner and he intentionally concealed the same. As per the composition of nomenclature of the respondents/judgment-debtors, third-party objector i.e. Chemical and Mechanical Engineering Industries is represented by Meenakshi Gupta. Meenakshi Gupta has already filed **CR No. 480 of 2022** in this Court against the order dated 10.01.2022, in which notice of motion has been issued for 25.05.2022. The said revision petition is still pending. The aforesaid petition was filed through the same Advocate, who has filed the present writ petition. Thereafter, **CR No.534 of 2022** was also filed through the same Advocate by different set of judgment-debtors namely Manjit Singh and Arun Gupta (who is husband of aforesaid Meenakshi Gupta). The said revision petition has been disposed

of vide order dated 17.02.2022, passed by the co-ordinate Bench in the following manner :-

“The present petition has been filed by the petitioners under Article 227 of the Constitution of India for setting aside order dated 10.01.2022 along with short zimini order of even date passed by Civil Judge (Senior Division), SAS Nagar (Mohali) in EXE-11-2019, on the ground that when the sole judgment debtor had himself given his undertaken that he is ready to sign the requisite documents for transfer of his share in the suit property then whole execution proceedings ends there and then and must be dismissed as infructuous being fully satisfied; along with certain other prayers.

The counsel for the petitioners submits that the petitioners do not have any objection against the impugned orders, except that the petitioners have not been permitted to sign the documents which are required to be signed by them as per law and even as per the order of the court. The counsel for the petitioners further submits that the petitioners are ready to sign whatever documents are necessary to be signed by them.

In view of the above, the present petition is disposed of by

upholding the orders passed by the executing court, but with a further direction to the court below that if any documents, which have been ordered to be prepared by the court, requires signatures of the petitioners as per the law and as per the judgment and decree under execution, then the court shall provide opportunity to the petitioners to sign the said document before getting the transfer of possession of the property done. However, this order shall not be taken as creating any fresh rights in favour of the petitioners to raise any fresh objection of any kind. If the signatures of the petitioners are not required under the judgment and decree under execution or under any other law, or the petitioners avoids putting signatures despite being granted opportunity, then the court shall proceed further qua execution as per its own order, which has been upheld herein above.”

Learned counsel for respondents no.3 and 4, by way of short reply, submits that the process of the Court has been misused deliberately by concealing the factum of obtaining the certified copy of order dated 10.01.2022 before 03.02.2022 itself.

Admittedly, notice of motion was issued only to the extent of making available the certified copy of order dated

10.01.2022 so as to enable the petitioner to assail the same in accordance with law before the competent Court. Therefore, at this stage, since the petitioner has already received the copy of order dated 10.01.2022, nothing survives in this petition and the same is accordingly disposed of.

February 23, 2022
monika

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No