

122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COC-1559-2021

Date of Decision :10.08.2022

SANJAY KUMAR SHARMA

...Petitioner

versus

SANDEEP CHHILLER AND ANR

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Deepam Raghav, Advocate for the petitioner.

Mr. Simardeep Singh Bedi, Advocate for respondent No.1.

B.S. Walia, J. (Oral)

[1] Prayer in the petition is for initiating proceedings against the respondents for intentional and willful violation of statement and order Annexure P-8 dated 05.03.2021 made by the authorized representative of the respondents / passed by the learned District Court Gurugram respectively, in Execution Petition No.94 of 2018.

[2] A perusal of order Annexure P-8 reveals that statement was made by Sh. Rajesh Grewal, authorized representative of the judgment-debtor that M/s Landmark Apartment Private Limited would make payment of Rs.45 lacs to the decree-holder in lumpsum within three months in lieu of buy back of the unit earlier allotted to the decree-holder as well as assured return thereon and that liability of making payment of TDS, if any, would be borne by the decree-holder after receiving payment of an amount of Rs.45 lacs and that on receiving amount of Rs.45 lacs, the decree-holder would have no other claim towards the judgment-debtor i.e. M/s Landmark Apartment Private Limited.

[3] Learned counsel contends that on the basis of the aforementioned

statement, the execution petition was dismissed as withdrawn being fully satisfied in the Daily Lok Adalat and the judgment-debtor/Company through its authorized person was directed to remain bound by the statement got recorded by him in the Daily Lok Adalat.

[4] Notice to respondent No.1 was issued on 08.09.2021.

[5] Learned counsel for respondent No.1 has handed over two drafts dated 11.07.2022 totaling Rs.33,92,816/- (i.e. Rs.24,28,147 + Rs.9,64,669) to counsel for the petitioner.

[6] Learned counsel for the petitioner states that in terms of the statement, full amount of Rs.45 lacs is to be paid to him and it is the decree-holder who is to make the payment of TDS thereafter, whereas full amount of Rs.45 lacs has not been made to him but only of Rs.43,92,816/- and that a sum of Rs.107185/- representing TDS on the amount of Rs.11 lacs i.e. interest on the payment deposited by the petitioner, has been deposited with the Income Tax Authorities by the respondent.

[7] Learned counsel for the petitioner states that in the circumstances, he does not press the instant petition and the same may be permitted to be withdrawn with liberty to the petitioner that in case of there being a requirement under the law that TDS is to be deposited by the petitioner, then Rs.1,07,185/- would be remitted by the respondents to the petitioner within 10 days of receipt of registered notice in writing from the petitioner to enable the petitioner to make payment of TDS to the Income Tax Authorities and in case the amount on account of TDS i.e. Rs.1,07,185/- is not returned to the petitioner, the petitioner be granted liberty to move an application for revival of the instant petition.

[8] The same is acceptable to learned counsel for the respondent No.1.

[9] Accordingly, in view of the position noted above, as well as statement of learned counsel for the parties, the instant petition is *disposed of* as not calling for any action against the respondents under the Contempt of Courts Act, 1971 while granting liberty to the petitioner as prayed for. However, in case the payment of TDS is to be made by the petitioner, then on payment of amount of Rs.1,07,185/- by the respondents to the petitioner, the petitioner would do all that is required of him to enable the respondents to seek refund of TDS deposited by the respondents.

[10] Rule discharged.

(B.S. Walia)
Judge

10.08.2022
amit

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>