

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.122 of 2013

- 1.1. Sunita Devi W/o Late Madan Mohan Prasad, resident of Village-Hathidah, P.O. and P.S. Hathidah, District-Patna, Pin-803301.
- 1.2. Shyam Nandan Sinha, S/o Late Madan Mohan Prasad, resident of Village-Hathidah, P.O. and P.S. Hathidah, District-Patna, Pin-803301.
- 1.3. Rajnish Kumar Sinha, S/o Late Madan Mohan Prasad, resident of Village-Hathidah, P.O. and P.S. Hathidah, District-Patna, Pin-803301.

... .. Petitioners

Versus

1. BATA India Ltd. through its Managing Director, 6A, S.N. Banerjee Road, Kolkata- 700013.
2. The Director, Finance and Administration Bata India Ltd. 6a, S.N. Banerjee Road, Kolkata- 700013
3. The Factory Manager, Bata India Ltd. Mokama Ghat, P.O. and P.S.-Hathidah, District- Patna
4. The Personnel Manager, Bata India Ltd. Mokama Ghat, P.O. and P.S.-Hathidah, District- Patna

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Raj Kishore Prasad Singh, Advocate Mr. Bal Bhushan Choudhary, Advocate
For the O.Ps.	:	Mr. Alok Kumar Sinha, Advocate Mr. Manish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

C.A.V. JUDGMENT

Date : 10-11-2023

Heard learned counsels for the parties.

2. This Civil Revision Application has been filed against the order dated 22.12.2012 passed by learned Additional Munsif IV, Barh, Patna in Execution Case No.02 of 2001 by which the learned court below disposed of the said execution case.

3. As per the petition, the brief facts of the case are that



the original petitioner Sri Madan Mohan Prasad filed a suit against the opposite parties being Title Suit No.87 of 1991 which was decreed in his favour vide judgment dated 26.07.1997 and decree dated 06.08.1997 wherein it was held that the order of his dismissal dated 18.06.1991 passed by defendant Bata India Limited is illegal, void and it was set aside and it was also held that the plaintiff shall be deemed to be in service of Bata India Limited from 20.06.1991 and is entitled for arrears of salaries and other benefits. The defendants/opposite parties filed appeal against the said judgment being Title Appeal No.05 of 1997 which was dismissed on merit on 14.09.2000 and decree dated 28.09.2000. The defendants filed Second Appeal No.403 of 2000 which has been admitted on 24.09.2003. It was held therein that “although regarding termination order there being a concurrent finding of fact by both the courts below; this Court cannot interfere with it, the appeal has been admitted only on other portion of the decree being granted regarding continuation of service reinstatement etc. of the plaintiff.” The Court on stay matter observed that there is no scope for stay of the money decree and hence, the plaintiff can proceed with the portion of the decree construing the same to be a decree of damage in execution proceeding.



4. The plaintiff/petitioner filed Execution Case No.02 of 2001 to realise the decretal dues. Since the stay of execution of the said decree was not granted, the defendants preferred L.P.A. No.1106 of 2003 which was dismissed vide order dated 11.11.2003 by this Court as not maintainable. The S.L.P. No.9147 of 2004 was filed by the defendant Bata India Limited which was dismissed with liberty to defendant that if difficulties arise in working out of the order then judgment debtor may approach the High Court.

5. The judgment debtor raised objection under Order XXI Rule 54 and Section 151 of the Code of Civil Procedure in execution case which was disposed of vide order dated 20.01.2005 and the Court directed to issue process of attachment which was challenged in this Court in Civil Revision No.275 of 2005 which was dismissed vide order dated 11.02.2005.

6. Since the amount was not quantified, the judgment debtor approached this Court through I.A. No.871 of 2005 in Second Appeal No.403 of 2000. The said interlocutory application was disposed of by this Court vide order dated 15.04.2005 with the following observations and directions :-

“6. ...As per the calculation of the judgment debtor a sum of Rs.6,03,890/- is



payable whereas as per the calculation of the decree holder, a sum of rupees fifteen lacs is payable. I, therefore, deem it fit and proper in the facts and circumstances of the present case let the judgment debtor hand over a cheque for a sum of rupees six lacs in favour of the decree holder which shall be handed over to the learned Execution court within four weeks, who shall hand over the same to the decree holder without the necessity of furnishing any security. It goes without saying that the same shall be subject to the result of this appeal.

7. The learned Execution court is hereby directed to allow both sides to lead evidence in support of their respective claims as to the decree holder entitlement and record clear finding. Release of further amount, if any, shall be as per the result of this appeal.”

7. In view of the aforesaid observations/directions, the Execution Court vide impugned order dated 22.12.2012 on the basis of evidence adduced by the parties and considering the submissions on behalf of the parties concluded that the total amount of damage to be paid to the decree holder Madan Mohan Prasad by judgment debtor Bata India Limited and others from 20.06.1991 to 02.08.2009 is equal to Rs.15,43,387/-. It is also noted that the amount earlier paid to decree holder by judgment debtor is equal to Rs.6 lacs and the rest due amount is equal to Rs.9,43,387/- and concluded that total due amount of damage is equal to Rs.9,43,387/- plus (a)



refundable deductions made earlier during service from starting of service up-to 20.06.1991, if not refunded earlier under the Head of P.F. Contribution, Family Pension etc. plus (b) the reasonable interest on due amount plus (c) the cost of suit awarded in Title Appeal No.05 of 1997.

8. Learned counsel for the petitioner submits that the learned Execution Court has not directed the judgment debtors to make payment of even the admitted dues after calculation and disposed of the execution case ignoring that the decree holder/petitioner has been deprived of getting the fruits of decree which is neither just nor proper nor tenable in the eyes of law. He further submits that the stay was not granted for realization of decretal amount, accordingly, the learned court below is not justified in disposing of the execution case. He also submits that the order dated 15.04.2005, in Second Appeal No.403 of 2000, has been passed by this Court ignoring the material facts.

9. On the other hand, the learned counsel for the opposite parties submits that there is no illegality in the impugned order and the same has been passed in compliance of the order dated 15.04.2005 passed in Second Appeal No.403 of 2000 wherein it was directed that the learned Execution Court



shall allow both sides to lead evidence in support of their respective claims as to the decree holder entitlement and record clear finding and also directed that release of further amount, if any, shall be as per the result of the said appeal. Accordingly, release of the said amount as prayed by the decree holder/petitioner at this stage is not tenable.

10. It is pertinent to mention here that the original petitioner namely Sri Madan Mohan Prasad died on 21.05.2021 and his heirs have been substituted in his place vide order dated 18.09.2023 in this proceeding.

11. It appears that the execution court has passed the impugned order in compliance of the order dated 15.04.2005 passed in Second Appeal No.403 of 2005, accordingly, the impugned order cannot be said to be an illegal order. It is clearly directed in the said order dated 15.04.2005 that release of further amount, if any, shall be as per result of the second appeal. The appellant/decreed holder may move the appropriate application after disposal of the second appeal or any other or further order passed in the said second appeal. The said order dated 15.04.2005 passed in second appeal has attained finality and it cannot be permitted to agitate against the said order in this Revision Application.



12. In the result, this Court finds that the impugned order of the learned court below is a reasoned order and is in accordance with law and does not suffer from any infirmity, illegality or perversity. There is no merit in this revision application and it does not require any interference by this Court in its revisional jurisdiction.

13. This Civil Revision Application is, accordingly, dismissed. There shall be no order as to cost.

(Sunil Dutta Mishra, J)

Harish/-

AFR/NAFR	NAFR
CAV DATE	25.09.2023
Uploading Date	10.11.2023
Transmission Date	

