

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1086-2016

Reserved on: 25.09.2023

Pronounced on: 19.10.2023

PUNJAB STATE ELECTRICITY BOARD PATIALA NOW PSPCL

...Petitioner

VERSUS

M/S A.A. ENTERPRISES

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Promila Nain, Advocate
for the petitioner.

Mr. Abhinav Kalia, Advocate
for the respondent.

VIKRAM AGGARWAL, J

The petitioner is aggrieved by the order dated 30.09.2015 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Patiala vide which the execution petition filed by the petitioner was dismissed.

2. Punjab State Electricity Board (now PSPCL) gave a purchase order on 05.05.1994 to the respondent. A dispute arose between them. As per Clause 28 of the purchase order, the matter was referred to arbitration. On 18.04.1997, award was announced (Annexure P-5). The respondent was directed to pay a sum of ₹3,06,178.92/- to the petitioner within a period of one month. Interest @ 18% per annum on the awarded amount was granted w.e.f. 18.05.1997 till realization in case the amount was not paid within the period of 30 days i.e. by 17.05.1997. Some other amounts were also awarded. This award was challenged but the same was made a rule of the Court on 21.11.2001. The appeal filed against the said decision was dismissed in default on 12.02.2004. A restoration application was filed but the same was also dismissed on 26.03.2007. FAO No.1583 of 2007 was

filed before this Court wherein on 20.04.2007, a Coordinate Bench stayed the execution of the Award subject to the deposit of the entire principal amount with the trial Court with a direction to the trial Court to release the same to the respondent. Ultimately the appeal was accepted on 16.01.2009 and the matter was remanded to the first Appellate Court for a fresh decision. The first appeal was dismissed on 15.06.2011 by the Court of Additional District Judge, Patiala (Annexure P-2). Execution petition was filed claiming ₹10,01,094/- (Annexure P-3). Objections under Section 47 CPC were also filed (Annexure P-4). By way of the impugned order, the objections were allowed and the execution petition was dismissed leading to the filing of the present revision petition.

3. The dispute before this Court is as to whether upon payment of principal amount as ordered by the Coordinate Bench on 20.04.2007, the interest clock stopped ticking or not.

4. I have heard learned counsel for the parties and have also perused the record.

5. Learned counsel for the petitioner strenuously urged that the Executing Court had gravely erred in dismissing the execution petition. Learned counsel submitted that merely because the principal amount was deposited would not mean that the interest clock would stop ticking. Learned counsel submitted that the interest was to be calculated as per the award and that the Executing Court could not have gone beyond the award. Learned counsel contended that the petitioner which is a public body has suffered a financial loss on account of the erroneous findings recorded by the Executing Court. In support of her contentions, learned counsel placed reliance upon a judgment of the Hon'ble Apex Court in ***Civil Appeal***

Nos.1312-1313 of 2023 titled as Sanwarlal Agrawal & Ors. Vs. Ashok

Kumar Kothari & Ors. decided on 21.02.2023. Learned counsel also placed reliance upon a judgment of Madras High Court in ***C.R.P. (NPD) No.1370 of 2017 titled as K.Duraisamy Vs. E.Kuppusamy and another decided on 14.11.2017.***

6. On the other hand, learned counsel representing the respondent submitted that there is no illegality or infirmity in the impugned order. It was contended that once the Coordinate Bench of this Court ordered the payment of the principal amount, the interest clock would stop ticking and that the petitioner cannot be permitted to claim interest on interest, as has rightly been held by the Executing Court.

7. I have considered the submissions made by learned counsel for the parties. The award is on record as Annexure P-5. The operative part reads as under:-

“The respondent firm is directed to pay Rs.3,06,178.92 on account of failure on his part to supply the balance quantity of 7353 Kg. copper strips, to the claimant against P.O. No.10661 dated 5.5.94 within the period of one month i.e. within 30 days of making this award. The claimant Board is awarded further interest @ 18% P.A. on the total award of Rs.3,06,178.92 w.e.f. 18.5.97 till the realization of the amount in case the respondent does not make the payment of awarded amount by 17.5.97.”

8. A perusal of the aforesaid direction would show that a sum of ₹3,06,178.92/- was to be paid within a period of 30 days from the date of award. In case of non-payment by 17.05.1997, the respondent was directed to pay interest @ 18% per annum on the total award of ₹3,06,178.92/- w.e.f. 18.05.1997 till the realization of the amount. When the respondent

approached this Court against the dismissal of the restoration application, a Coordinate Bench passed the following order on 20.04.2007:-

“Notice of motion for September, 6, 2007

In the meantime, execution of the award shall remain stayed provided the appellant deposits the entire principal amount with the Trial Court and the same shall be released to the respondent in whose favour award has been passed.”

The aforesaid order shows that the execution of the award had been stayed subject to deposit of the entire principal amount with the trial Court. It is the case of the respondent that in pursuance to the orders passed by the Coordinate Bench, the principal amount of ₹3,06,179.92 was paid vide demand draft dated 30.07.2007. Interest of ₹503336/- was deposited by way of demand draft dated 07.07.2014 upto 2007.

9. Now the question is whether interest beyond July 2007 when the principal amount was deposited would be chargeable and whether the interest clock would keep ticking. In the considered opinion of this Court, the answer to this question would be in the affirmative. The Coordinate Bench had only given an interim order of stay of execution subject to deposit of the principal amount since the matter had to be adjudicated. Ultimately, the matter was remanded to the first Appellate Court and the appeal was dismissed. The interest clock would, therefore, not stop ticking on payment of the principal amount. It has to be borne in mind that though the principal amount was paid vide demand draft dated 30.07.2007, the interest of ₹503336/- was paid upto 2007 vide demand draft dated 07.07.2014. Under the circumstances, the interest from the time when the principal amount was paid till the time when the interest was paid would be payable. Had the interest also been paid alongwith principal amount, then ofcourse, the

interest clock would have stopped ticking. However, since only the principal amount was paid, the interest clock till the payment of the interest would not stop ticking. The Executing Court, therefore, erred in holding that the petitioner cannot claim interest on interest. The petitioner was not claiming interest on interest but was simply claiming payment as per the award. The Executing Court was bound by the terms and conditions of the award and could not have travelled beyond the same as is the settled law. It would be liable to make the payment strictly in terms of the award and the interest would be payable till the date of payment. The finding of the Executing Court that the amount would first be adjusted towards the interest upto 15.08.2007 is erroneous and is not sustainable.

10. In view of the aforesaid, the present revision petition is allowed. The impugned order dated 30.09.2015 (Annexure P-1) passed by the Court of Additional Civil Judge (Senior Division), Patiala is set aside. The petitioner would be at liberty to file an application in the previous execution petition or to move a fresh execution petition as the case may be. It is held that the petitioner would be entitled to payment of the awarded amount alongwith interest @ 18% as awarded by the award which was subsequently upheld. Calculations be made accordingly and payment be thereafter made within a period of two months from today.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 19.10.2023
Hemant

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No