

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206 (A)

CM-17039-CII-2010 in/&
CR-2308-2009 (O&M)
Date of Decision :20.01.2023

PEPSU Road Transport Corporation, Patiala
and another

...Petitioners

Versus

Gurdev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anupam Singla, Advocate for the appellants.

Mr. D.D. Bansal, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

Present revision petition has been filed challenging order dated 24.01.2009 (Annexure P/3) passed by the Court below in Execution Application No.54 dated 15.06.2007 (Annexure P/2) by which, property of the petitiones-judgment debtor being Account No.55100493367 in the State Bank of Patiala has been attached.

Learned counsel for the petitioners argues that without going into the fact that whether order of the Lower Appellate Court dated 16.04.1994 (Annexure P/1) by which, decree passed by the trial Court dated 16.04.1993 terminating the services of the respondent was held to be bad and the relief was given for holding *de-novo* enquiry and to treat the respondent-plaintiff under suspension w.e.f. 21.11.1987 onwards, has been complied with or not, an attachment order was passed straightway. Learned

counsel for the petitioners submits that the impugned order dated

24.01.2009 (Annexure P/3) is not sustainable for the reason that nothing has been mentioned in the said order as to whether benefits of arrears of salary etc. were granted to the plaintiff-decree holder or not.

Learned counsel for the petitioners further submits that even the execution application dated 15.06.2007 filed by the respondent is not maintainable at this delayed stage of passing of orders dated 16.04.1993 and 16.04.1994 by the trial Court and the Lower appellate Court respectively being barred by limitation.

Learned counsel for the respondent-decree-holder concedes the factum that though, order of attachment has been passed but the order does record the finding that the decree of the trial Court dated 16.04.1993, which has been modified by the Lower Appellate Court vide order dated 16.04.1994, has not been complied with.

In the absence of any finding that decree has not been complied with, there could not have been an order of attachment especially, without going into the objections raised by the judgment debtor qua the maintainability of the execution application.

Keeping in view the above, order dated 24.01.2009 (Annexure P/3) passed by the Court below in Execution Application No.54 dated 15.06.2007 is set aside leaving the parties to avail an appropriate remedy before appropriate forum.

Revision Petition stands allowed.

January 20, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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