

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

229

CR-2046-2016 (O&M)
Date of Decision :01.03.2023

Union of India

...Petitioner

Versus

M/s Krishna Construction Company and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shivoy Dhir, Advocate for the petitioner-UOI.

Mr. Ranjit Saini, Advocate for the respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-5991-CII-2016

Application is allowed as prayed for.

CR-2046-2016

Present revision petition has been filed challenging order dated 01.02.2016 (Annexure P/1) passed by the Civil Judge, Junior Division, Karnal by which, respondent has been held entitled for interest on the amount of Rs. 1,13,519/- starting from 06.04.2000 till 28.04.2006.

As per the facts of the present case, the Contractor-respondent herein had initiated arbitration proceedings under the Arbitration Act, 1940 wherein, the petitioner-Union of India was liable to pay a sum of Rs.1,13,519/- to the respondent-Contractor and the said amount was deposited by the petitioner vide cheque No.546085 dated 03.04.2000 with the Court. Thereafter, an execution petition was filed by the contractor i.e.

respondent herein for the recovery of the said amount as awarded to him

vide arbitration award dated 30.11.1999. In the execution petition, it had been mentioned that the amount which was assessed in favour of the decree holder should be paid along with interest. The Executing Court has passed the impugned order dated 01.02.2016 (Annexure P/1) holding that the petitioner-judgment debtor is liable to pay interest up to 28.04.2006 i.e. the date when the decree holder was informed about the deposit of the said amount and not till the date amount was actually deposited by the judgment debtor. The said order is under challenge in the present revision petition.

Learned counsel for the petitioner argues that once, it is a conceded position that the amount which the petitioner-judgment debtor was made liable to pay to the respondent-decree holder, was deposited by way of a cheque with the Court on 06.04.2000, the petitioner-judgment debtor is not liable to pay interest thereafter and payment of interest up to 28.04.2006 as directed by the Court below is incorrect as there was no default on the part of the petitioner in the payment of the said amount hence, the impugned order dated 01.02.2016 is liable to be set aside.

Learned counsel for the respondent-decree holder submits that as no information was given to the decree holder about the deposit of the said amount and the decree holder could not withdraw the said amount hence, decree holder is entitled for interest up to the date when the judgment debtor informed about the deposit of the amount in question to the decree holder i.e. upto 28.04.2006.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The liability of the judgment debtor was assessed by the award

of the arbitrator dated 30.11.1999 to the tune of Rs.1,13,519/- including interest up to the date of award and it is a conceded position that by cheque No.546085 dated 03.04.2000, the said amount was deposited by the judgment debtor in the Court to be paid to the decree holder. Merely, that the said amount was not withdrawn by the decree holder on the pretext that he was not having knowledge of the deposit of the said amount by the judgment debtor does not entitle the decree holder for interest once, the onus of liability was discharged by the judgment debtor. Whether the amount has not been received by the decree holder due to non-communication of the deposit of the liability will not put further liability upon the judgment debtor to pay the interest even after depositing the amount in question. Trial Court in the impugned order has failed to appreciate the said fact.

Keeping in view the above, impugned order dated 01.02.2016 (Annexure P/1) directing the petitioner-UOI to pay the interest up to the date when the deposit of the amount in question was informed to the decree holder i.e. 28.04.2006 is not correct and is accordingly set aside.

Present revision petition stands allowed.

March 01, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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