

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4659-2018 (O&M)
Date of decision: 20.04.2023

CHOUTH MAL

...Petitioner

VS

UHBVN AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Naveen Daryal, Advocate,
For the petitioner.

Ms. Anjali, Advocate for
Mr. Harmanjot Singh Gill, Advocate,
For the respondents.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 11.05.2018 (Annexure P-5) passed by Learned Civil Judge (Junior Division), Karnal, whereby execution petition to implement judgment dated 03.04.2008 (Annexure P-1) filed by petitioner/decreed holder, was dismissed.

2. Learned counsel for petitioner submits that vide judgment dated 03.04.2008 (Annexure P-1), suit of plaintiff/petitioner was decreed with costs and a decree for declaration to the effect that plaintiff is entitled to release of payment of gratuity, GIS, commutation of pension, leave encashment and 10% of remaining pension along with interest @ 18% per annum from the date of withholding of said amount up to actual realization of the same, was passed in favour of plaintiff/petitioner. Defendants were directed to consider the case of plaintiff/petitioner within three months from

the date of decree and to release the retiral benefits due to plaintiff/petitioner.

2.1. Learned counsel for petitioner further submits that petitioner filed an application for execution of the above said order, which was dismissed vide impugned order dated 11.05.2018 (Annexure P-5). Hence, the instant petition.

3. Per contra, learned counsel appearing on behalf of respondent/Judgment Debtors submits that all the payments have been already made to the decree holder/petitioner herein and nothing is due. Being satisfied, decree holder had withdrawn his earlier execution petition as fully satisfied.

4. I have heard learned counsel for the parties and gone through the case file.

5. It appears that learned Executing Court got swayed with the fact since decree holder/petitioner herein had withdrawn the earlier execution proceedings seeking recovery of the decretal amount by making a statement that same had been received by him and at the same time, it appears that during reconciliation of the accounts subsequently based on the Pay Roll Ledger (Annexure P-4) herein, further outstanding amount of Rs.75,151/- is yet payable in full satisfaction of final decree. In the premise, he filed an execution petition which has been dismissed summarily on account of withdrawing of earlier petition.

6. In the premise, the impugned order is set aside and petitioner is granted liberty to file fresh execution proceedings by appending the proof of non-payment of outstanding dues, which question shall be gone into by learned Executing Court regardless of the earlier execution petition having been withdrawn and in case, it is so found that any amount is indeed payable

in full and final settlement of decree, steps be taken, in accordance with law,
to satisfy the decree.

7. Disposed of, accordingly.

(ARUN MONGA)
JUDGE

20.04.2023
vandana

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