

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR-6146-2018 (O&M)

Date of Decision : 22.03.2023

Bahadur Singh and Another

....Petitioners

VERSUS

Sucha Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amardeep Singh Gill, Advocate for the petitioners.

Mr. Vikas Singh, Advocate for respondent Nos.1, 4 and 6.

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ALKA SARIN, J. (Oral)

The challenge in the present revision petition is to the order dated 21.07.2018 whereby, while setting aside the ex-parte judgment and decree dated 09.02.2017 on an application under Order IX Rule 13 CPC, a condition has been imposed directing the defendant-petitioners herein to deposit Rs.12,00,000/- (rupees twelve lakhs only) as security.

Learned counsel for the defendant-petitioners would contend that even in the judgment of the Supreme Court relied upon by the Trial Court in the impugned order i.e. **V.K. Industries Vs. M. P. Electricity Board [2002(2) RCR (Civil) 334]**, their Lordships had held that the terms imposed should be reasonable and not harshly excessive. Learned counsel would further contend that a condition of depositing of Rs.12,00,000/-

(rupees twelve lakhs only) is onerous, harsh and unreasonable.

Per contra, learned counsel for the respondent Nos.1, 4 and 6 states that in the case of **V.K. Industries** (*supra*), the suit was for recovery of Rs.3,84,455.44 paisa along with future interest @ 24% per annum and the Supreme Court had directed deposit of Rs.1,00,000/- (rupees one lakh only) with the Trial Court as a condition for allowing the application under Order IX Rule 13 CPC and hence the impugned order has rightly been passed.

Heard.

In the present case, vide ex-parte judgment and decree, the defendant-petitioners were directed to pay Rs.64,90,500/- along with interest @ 9% per annum. The Trial Court while allowing the application under Order IX Rule 13 CPC imposed a condition that the defendant-petitioners would deposit an amount of Rs.12,00,000/- (rupees twelve lakhs only) within a period of two months. Aggrieved by the said order, the present revision petition has been filed.

It is trite that a money decree is not ordinarily stayed unconditionally and that conditions may be imposed. However, the conditions imposed must be reasonable and not harshly excessive as laid down by the Lordships of the Supreme Court in the case of **V.K. Industries** (*supra*). The condition of depositing Rs.12,00,000/- (rupees twelve lakhs only) imposed by the Trial Court, in the considered view of this Court, is onerous, harsh and unreasonable and that too before the trial of the suit on merits.

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In view of the above, it would be just and proper to direct the defendant-petitioners to deposit a sum of Rs.7,00,000/- (rupees seven lakhs only) with the Trial Court within a period of four weeks' from today. The amount so deposited shall be invested in a FDR with a Nationalized Bank.

The present revision petition stands allowed and the impugned order dated 21.07.2008 (Annexure P/6) is modified accordingly. Pending applications, if any, also stand disposed off.

March 22, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO