

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1442-2023 (O&M)

Date of Decision: September 13, 2023

Kamal

...Petitioner

Versus

Royal Sundaram Alliance Insurance Co. Ltd.

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.G.S.Bedi, Advocate
for the petitioner.

Mr.Rajbir Singh, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 18.08.2021 (Annexure P-10) passed by learned Executing Court in Execution Petition bearing No.EXE-630-2018 dated 11.10.2018, titled as 'Kamal vs. Royal Sundaram Alliance Insurance Company Limited and another'.

The essential facts to be noticed are as follows:-

That, initially, petitioner-Kamal had filed a petition for issuance of direction to the respondents to pass and disburse the claim to the petitioner. However, during the pendency of the said petition, respondent was

proceeded against ex-parte and thereupon, ex-parte order dated 07.06.2011 was passed by Chairman, Permanent Lok Adalat, whereby, direction was given to the respondent to pay Rs.7,59,000/- along with interest @ 9%, from the date of institution of the present application, till today i.e. till the date of this order (till 07.06.2011).

However, the respondent had challenged the aforesaid order by way of a civil writ petition i.e. CWP-22580-2014, decided on 08.01.2016, copy whereof is Annexure P-4. The said writ petition was accepted and the order passed by Permanent Lok Adalat was set aside and the case was remanded back to give an opportunity to the present respondent (who was petitioner in the writ petition) to join the proceedings and further direction was also given that Permanent Lok Adalat shall first invoke its jurisdiction in terms of Section 22C(3) to (7) and then to embark upon Section 22C(8), in case the parties fail to arrive at an amicable solution.

Thereupon, in pursuance of an application bearing No.1571-2016 filed by the petitioner, again the proceedings were conducted by Permanent Lok Adalat and it was finally disposed of on 04.07.2017, copy whereof is Annexure P-6. Vide this order, again the respondent was directed to pay Rs.7,59,000/- along with interest @ 9% per annum, from the date of institution of present application, till the date of order.

Thereafter, execution petition was filed by the petitioner. During the pendency of the said execution petition, objections were filed by the respondent, therein, submitting that in consonance with the order passed by Permanent Lok Adalat vide order dated 04.07.2017, the JD (Royal Sundaram

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Alliance Insurance Company) after calculating interest and the awarded amount, released the payment of Rs.8,65,451/-, calculated from 06.04.2016 till payment i.e. 23.03.2018, after deducting the TDS, as per law and the same is also admitted by the decree holder (petitioner), in his execution petition. Hence, the execution petition filed by the decree holder is not maintainable.

To the aforesaid objection, though, reply was not filed, but however, the decree holder-present petitioner had resisted the claim of the JD (present respondent), while stating that vide Award dated 04.07.2017, the JD was required to pay a sum of Rs.7,59,000/- along with interest @ 9% per annum, to the decree holder, from the date of filing of the application i.e. since 08.04.2011 till its realization. However, the aforesaid claim, asserted by the decree holder was disputed by JD, who submitted that it was only from the date of filing of the application, subsequent to the remand of the case and till the payment, the interest was to be paid and the same has been complied with.

After hearing the arguments, learned Executing Court had accepted the objections and the execution petition, preferred by the decree holder was dismissed, as the claim had already been satisfied, as per the Award dated 04.07.2017 passed by Permanent Lok Adalat. Therein, it was observed by learned Executing Court that the decree holder is entitled to awarded amount along with interest, from the date of institution of the application i.e. 06.04.2016, but not otherwise and that the Executing Court

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cannot go beyond the Award as the Executing Court is bound to follow the judgment/Award.

Feeling aggrieved by order of acceptance of objections and dismissal of the execution petition, the present petitioner-decree holder has filed the present revision petition. Even, the respondent had made appearance.

Learned counsel for the parties heard.

As already detailed aforesaid, initially, the claim petition was filed by the decree holder on 08.04.2011 and therein, respondent was proceeded against ex-parte and an ex-parte Award was passed on 07.06.2011, whereby, a direction was given to the respondent to pay an amount of Rs.7,59,000/- together with 9% interest, from the date of institution of the application, till date i.e. till the date of the order (i.e. 07.06.2011). However, the aforesaid order, was so challenged by the respondent, by way of filing of CWP-22580-2014, which was allowed and this Court set aside the order dated 07.06.2011 passed by Permanent Lok Adalat and remanded back the case with a direction to give an opportunity to the present respondent (who was petitioner in the writ petition) to join the proceedings and further directed Permanent Lok Adalat to firstly invoke its jurisdiction in terms of Section 22C(3) to (7) and then to embark upon Section 22C(8), in case the parties fail to arrive at an amicable solution.

Thereupon, the proceedings were further conducted, by way of an application bearing No.1571-2016 filed by Kamal-present petitioner and thereupon, fresh Award was passed by the Permanent Lok Adalat, thereby,

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categorically issuing direction to the respondent to pay a sum of Rs.7,59,000/- along with interest @ 9% per annum, **from the date of institution of present application, till date of order.** It is this direction, so made by the Permanent Lok Adalat, which requires consideration, to consider the objection so raised.

Undisputedly, the direction, so given by the Permanent Lok Adalat on 04.07.2017 reveals about the interest to be paid from the date of filing of present application, meaning thereby, since the date of filing of application No.1571-2016, date of institution of which was 06.04.2016. Undisputedly, from this date, so calculated, the requisite amount has since been deposited and precisely, on this account, learned Executing Court had made an observation about decree to have been satisfied, as per Award dated 04.07.2017.

Though, it is submitted by learned counsel for the petitioner that the interest ought to be paid, since the year 2011, when firstly, the petition was filed before the executing Court in the year 2011, but however, this is not evident from the tone and tenor of the order dated 04.07.2017. Anyhow, order dated 04.07.2017 has been passed, thereby, restricting the payment of interest, prior to the date of filing of the application No.1571-2016 and till date, the decree holder has not filed any application to assail this order.

In the given circumstances, the Executing Court, while deciding the objections, could not go beyond the Award, so passed by the Permanent Lok Adalat. It has to be executed as it is and learned Executing Court has rightly allowed the objection petition filed by the respondent and in view of

the amount already been deposited by the respondent (JD), has dismissed the execution petition, as satisfied, as per Award dated 04.07.2017.

Considering the same, no ground is made for interference in the impugned order dated 18.08.2021. Hence, the present revision petition stands dismissed.

September 13, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No